

*Zoning Text 1964 with all amendment up until adoption
of 1986 New text.*

APPENDIX A

ZONING ORDINANCE*

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***Editor's note**—This appendix consists of the city zoning ordinance, being Ordinance No. G-183, adopted Jan. 29, 1964, as amended. Amendments are indicated by historical citations following each amendment. A uniform system of capitalization has been employed and a frontal analysis has been added for the convenience of the user. Otherwise, the zoning ordinance is set out herein exactly as originally adopted.

State law reference—Zoning and planning, Anno. Code of Md., 1957, art. 66B.

Charter references—Planning and zoning generally, §§ 175—190, § 36, (c) and (j.1).

Cross references—"Historic Frederick" district, § 5-16 et seq.; airport zoning, App. B; subdivision regulations, App. C.

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PURPOSE.

- 1.00 The purpose of this ordinance is to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the city, by regulating the location, height, bulk, and size of buildings and other structures, the size of yards, courts, and other open spaces, and the uses of buildings, structures, and land for trade, industry, business, residence, and other purposes; all with the general purpose of providing for adequate light and air, preventing the over-crowding of land and undue concentration of population, securing safety from fire, panic, and other dangers, conserving the value of property, providing adequately for schools, parks, and other public requirements, and for other lawful purposes.

Section 2.

TERRITORIAL LIMITS.

- 2.00 This ordinance shall apply to all lands, buildings, properties, and their uses, within the corporate limits of the City of Frederick and within a radius of one (1) mile therefrom in all directions, except for any U. S. Government properties therein.

Section 3.

INTERPRETATION OF STANDARDS.

- 3.00 In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules, regulations, or ordinances, or by private restrictions, the provisions of this ordinance shall control.

Section 4.

DEFINITIONS.

- 4.00 Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word "building" shall include the word "structure"; the

word "used" shall include "arranged, designed, constructed, altered, converted, rented, leased, or intended to be used"; the word "occupied" shall include "arranged, intended or designed to be occupied"; and the word "shall" is mandatory and not directory.

- 4.01 **Accessory use or structure.** A use or structure subordinate to the principal building or use on the same lot and serving a purpose customarily incidental to the use of the principal building or land use.
- 4.011 **Adult bookstore.** A store which offers to sell at wholesale or retail any book, magazine, picture or other visual representation depicting sexual conduct and/or sexual devices or paraphernalia which is prohibited to be sold to minors by reason of state or federal law. A store whose business is comprised of the above mentioned products—these sales constitute the primary source of income. (Ord. No. G-77-17, § 1, 12-1-77)
- 4.012 **Adult motion picture theatre.** A store or theatre which exhibits and/or offers for sale motion picture shows or other presentation, whether animated or live, depicting sexual conduct which is prohibited to be shown to minors by reason of state or federal law. A store or theatre whose business is comprised of the above mentioned products—these sales constitute the primary source of income. (Ord. No. G-77-17, § 1, 12-1-77)
- 4.02 **Automobile service station.** A retail establishment primarily for the serving of passenger automobiles with fuel, oil, water, air, and similar operating necessities, and including customary incidental sales and services but no heavy repairing, tire recapping, or other use classified separately in this ordinance.
- 4.03 **Alley.** A public or private way affording secondary means of access to abutting property.

- 4.04 **Basement.** A story where the floor is more than twelve (12) inches, but not more than half of its story height, below the average level of the adjoining ground (as distinguished from a "cellar" which is a story more than one-half below such level).
- 4.05 **Billboard.** Any structure or portion thereof, situated on private premises, on which lettered, figured, or pictorial matter is displayed for advertising purposes, other than the name and occupation of the user of the premises or the nature of the business conducted thereon or the products primarily sold or manufactured thereon.
- 4.06 **Board.** The zoning board of appeals of Frederick City.
- 4.07 **Boarding or lodging house.** A dwelling or part thereof where meals and/or lodging are provided, for compensation, for persons not transients.
- 4.08 **Building.** Structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, or chattels, including carports, tents, cabins, or trailers. When such a structure is divided by one or more unpierced walls extending from the ground up, but is on one lot and is served by common yards, parking areas, and other facilities, all in one ownership, it shall be considered one building for the purpose of applying the provisions of this ordinance; provided, however, that such building, if a dwelling, does not exceed one hundred sixty (160) feet in length and two (2) habitable rooms in depth.
- 4.09 **Building, height of.** The vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

- 4.10 **Cellar.** A story having more than one-half of its height below average contact grade. A cellar is counted as a story for the purpose of height regulations only if used as a separate dwelling.
- 4.11 **Conditional use.** A use which may be permitted in a district through the granting by the board of appeals of an exception as authorized by section 188, the Charter of the City of Frederick, upon a finding by the board that it meets specified conditions.
- 4.12 **Construction, starting of.** The combining of labor and material into any portion of the structure, on the site thereof.
- 4.13 **Court.** An open, unoccupied, and unobstructed space, other than a yard, on the same lot with a building or a group of buildings.
- 4.14 **District.** A portion of the territory to which this ordinance applies, within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this ordinance. The term "R District" shall mean any "R-1," "R-2," "R-3," or "R-4" District; the term "B District" shall mean any "B-0," "B-1," "B-2," or "B-3" District; and the term "M District" shall mean any "M-1" or "M-2" District.
- 4.15 **Dwelling.** Any building or portion thereof occupied or intended to be occupied exclusively for residence purposes, but not including a tent, cabin, trailer, or mobile home, or a room in a hotel or motel.
- a. *Dwelling, single-family.* A detached dwelling shall not be deemed as a residence where unrelated occupants utilize two (2) or more separate and permanent food preparation areas. (Ord. No. G-82-2, § 1, 1-7-82)
 - b. *Dwelling, two-family.* A detached building (as defined herein) designed for or used exclusively for

residence purposes by not more than two (2) families or housekeeping units, including double houses, flats, and the like.

- c. *Dwelling, multifamily.* A detached building, or a group of attached and semidetached buildings in single ownership (row houses), designed for or used exclusively for residence purposes by more than two (2) families or housekeeping units.

- 4.16 **Essential services.** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies, in any street, alley or easement provided therefor on a subdivision plat, of underground or overhead electrical, gas, steam, or water transmission, distribution, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for protection of the public health, safety, or general welfare; but not including buildings nor the storage, repair, or processing of equipment or materials.
- 4.17 **Family.** A person living alone or two (2) or more persons living together as a single housekeeping unit, but not including a group of persons occupying a boarding house, lodging house or hotel.
- 4.18 **Farm.** A parcel of land not less than five (5) acres in size used for any agricultural purpose such as general farming, apiculture, horticulture, floriculture, viticulture, dairy farming, horse farming, and animal or poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce of such farm; provided, however, that the

operation of any such accessory uses shall be secondary to that of normal agricultural activities; and provided further, that the above uses shall not include commercial hog farms or fur farms.

4.181 **Floodplain, annual.** The annual floodplain shall consist of all levels described in any of the following:

- a. Soil types designated within "Soil Survey, Frederick County, Maryland" (1960) report published by the U.S. Soil Conservation Service, said being principally a natural water retention area of generally wet land: Chewacla silt loam, 0—3% slopes (CmA); Huntington silt loam, 0—3% slopes (HnA); Lindsite silt loam, 0—3% slopes (LkA); and Melvin silt loam, 0—3% slopes (McA).
- b. Floodplain study, dated October 1974, revised April 1975 by Dewberry, Nealon & Davis (on file in the office of the city engineer). 100-year floodplain.
- c. The FIA, HUD floodplain, as shown on the flood insurance study, dated December 1977, completed by the United States Department of Housing and Urban Development, Federal Insurance Administration (on file in the office of the city engineer). 100-year floodplain.

In those areas where the floodplain is defined by a, b and c above, the FIA floodplain map shall be used to determine the floodplain. In areas where the floodplain is described by a and b above, the floodplain study, dated October 1974, shall be used to determine the floodplain. In any remaining areas, a above shall be used to determine the floodplain. (Ord. No. G-70-54, § 1; Ord. No. G-78-14, § 1, 6-15-78)

4.182 **Floodplain, historical.** That floodplain defined along the Monocacy River within the following

residence purposes by not more than two (2) families or housekeeping units, including double houses, flats, and the like.

- c. *Dwelling, multifamily.* A detached building, or a group of attached and semidetached buildings in single ownership (row houses), designed for or used exclusively for residence purposes by more than two (2) families or housekeeping units.

4.16 **Essential services.** The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies, in any street, alley or easement provided therefor on a subdivision plat, of underground or overhead electrical, gas, steam, or water transmission, distribution, collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for protection of the public health, safety, or general welfare; but not including buildings nor the storage, repair, or processing of equipment or materials.

4.17 **Family.** A person living alone or two (2) or more persons living together as a single housekeeping unit, but not including a group of persons occupying a boarding house, lodging house or hotel.

4.18 **Farm.** A parcel of land not less than five (5) acres in size used for any agricultural purpose such as general farming, apiculture, horticulture, floriculture, viticulture, dairy farming, horse farming, and animal or poultry husbandry, and the necessary accessory uses for packing, treating, or storing the produce of such farm; provided, however, that the

operation of any such accessory uses shall be secondary to that of normal agricultural activities; and provided further, that the above uses shall not include commercial hog farms or fur farms.

4.181 **Floodplain, 100-year.** A flood that on the average is likely to occur every one hundred (100) years. The 100-year floodplain shall consist of all levels described in any of the following:

- a. Soil types designated within "Soil Survey, Frederick County, Maryland" (1960) report published by the U.S. Soil Conservation Service, said being principally a natural water retention area of generally wet land: Chewacla silt loam, 0—3% slopes (CmA); Huntington silt loam, 0—3% slopes (HnA); Lindside silt loam, 0—3% slopes (LKA); and Melvin silt loam, 0—3% slopes (McA).
- b. Floodplain study, dated October 2974. Revised August 1975, by Dewberry, Nealon and Davis. (On file in the office of the city engineer.)
- c. The FIA, HUD floodplain, as shown on the flood insurance study, dated December 1977, completed by the United States Department of Housing and Urban Development, Federal Insurance Administration. (On file in the office of the city engineer.)

In those areas where the floodplain is defined by a, b and c above, the FIA floodplain map shall be used to determine the floodplain. In areas where the floodplain is described by a and b above, the floodplain study, dated October 1974, shall be used to determine the floodplain. In any remaining areas, a above shall be used to determine the floodplain. (Ord. No. G-70-54, § 1; Ord. No. G-78-14, § 1, 6-15-78; Ord. No. G-82-19, § 1, 10-7-82)

4.182 **Reserved.** Formerly defined "floodplain, natural;" derived from Ord. No. G-70-54, § 1; repealed by Ord. No. G-82-19, § 1, adopted Oct. 7, 1982.

- 4.19 **Garage, private.** A garage intended for and used for the storage of the private passenger motor vehicles of the families resident upon the premises.
- 4.20 **Garage, public.** A space or structure other than a private garage, for the storage, sale, hire, care, repair, or refinishing of self-propelled vehicles or trailers.
- 4.21 **Garden housing project.** A group of two (2) or more dwellings located on the same lot and conforming to the special conditions and requirements specified in section 18.30.
- 4.211 **Group homes.** A single dwelling unit owned or leased by a governmental or other nonprofit organization. Said facility used to house a group of minors or mentally retarded persons. A staff is employed and used as counselors or house parents. The parent agency-institution, has the administrative, supervisory and service responsibility for the group home. The facility should not have any outward appearance which would give reason to believe that it is not being used as a residence or other use expressly permitted in the district. (Ord. No. G-70-37, § 1; Ord. No. G-73-28, § 1)
- 4.22 **Junk yard.** Any area where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, stored, disassembled, or handled, including auto wrecking yards, house wrecking yards, used lumber yards, and places or yards for storage of salvaged house wrecking and structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable conditions, salvaged machinery and the processing of used, discarded or salvaged materials as part of manufacturing operations.

- 4.221 **Liquefied petroleum gases.** Any material composed predominantly of the following hydrocarbons, either by themselves or as mixtures: Propane, propylene, butane (normal butane or iso-butane) and butylene (including isomers).
- 4.23. **Lot.** A piece or parcel of land occupied or intended to be occupied by a principal building or use, or a group of buildings conforming with the regulations of this ordinance, and its accessory buildings and uses, including all open spaces required by this ordinance, and having frontage on a public street as defined herein.
- a. *Lot, corner.* A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, and in either case forming an interior angle of less than one hundred thirty-five (135) degrees.
 - b. *Lot, interior.* A lot other than a corner lot.
 - c. *Lot, through.* A lot having frontage on two (2) nonintersecting streets, as distinguished from a corner lot.
- 4.24 **Lot depth.** The mean horizontal distance between the front and the rear lot lines.
- 4.25 **Lot line, front.** The line separating the lot from the street upon which it fronts. A corner lot shall be

- deemed normally to front upon the street on which it has the least dimension.
- 4.26 **Lot line, rear.** The lot line opposite and most distant from the front lot line.
- 4.27 **Lot line, side.** Any lot line other than a front or rear lot line.
- 4.28 **Lot line, street or alley.** Any lot line separating the lot from a street or alley.
- 4.29 **Lot width.** The width of the lot measured at right angles to its center line, at the front building line.
- 4.30 **Mining.** The extraction from the land of any mineral or natural material for the purpose of processing or utilization, including strip mining, borrow pits, soil stripping, quarrying, etc.
- 4.31 **Motel.** Any establishment consisting of two (2) or more guest rooms or suites, with separate outside entrances and adjacent parking spaces, designed or maintained for the accommodation of transients; or any establishment for the accommodation of transients which displays the name "motel".
- 4.32 **Nonconforming use.** A building, structure or premises legally devoted to or occupied by, or for, a use that does not conform with the provisions of this ordinance or amendments thereto for the district in which located.
- 4.33 **Parking lot, commercial.** A permanently surfaced area of one (1) or more "parking spaces" designed or used for the parking of self-propelled vehicles and available to the public whether for a fee or as an accommodation to clients or customers.
- 4.34 **Parking space.** A permanently surfaced area of not less than one hundred eighty (180) square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of a motor vehicle.
- 4.35 **Planning commission.** The city planning and zoning commission of Frederick, Maryland.
- 4.36 **Roadside stand.** A temporary structure designed or used for the display or sale of neighborhood agricultural products or other products on the premises upon which such a stand is located.

- 4.360 **Sign.** Any display of lettered, figured, pictorial matter, device or representation used for advertising, identification, or informational purposes. (Ord. No. G-264, § 1.)
- 4.37 **Stable, private.** A stable with a capacity of not more than two (2) animals.
- 4.38 **Story.** That portion of a building other than a cellar as defined herein, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.
- a. *Story, ground.* The lowest story, ground story, or first story of any building is the lowest story the floor of which is not more than three and one-half (3½) feet below the average contact ground level at the exterior walls of the building; except, that any basement used as a separate dwelling by other than a janitor or caretaker and his family, shall be deemed a ground or first floor.
- b. *Story, half.* "Half-story" shall mean a partial story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story used as a separate dwelling, other than for a janitor or caretaker and his family, shall be deemed a full story.
- 4.39 **Street.** A public right-of-way fifty (50) feet or more in width which provides a means of public access to an abutting property, or any public or private right-of-way not less than thirty (30) feet in width which existed prior to the enactment of this ordinance. The term "street" shall include road, avenue, drive, circle, highway, parkway, place, court, or similar term.
- 4.40 **Structure.** Anything constructed, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground but not including fences, sidewalks, driveways, and curbs.
- 4.41 **Structural alteration.** Any change in the structural members of a building, such as walls, columns, beams, or girders.

- 4.42 **Trailer (including automobile trailer, and mobile home.)** Any vehicle or structure constructed in such a manner as to permit occupancy thereof as sleeping quarters or the conduct of any business, trade or oc-

cupation, or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and transported over highways and streets, propelled or drawn by its own or other motive powers.

- 4.43 **Trailer park.** Any park, tourist park, camp, court, site, lot, parcel, or tract of land which is designed, maintained, or intended for the purpose of supplying a location or accommodation for two or more trailer coaches for living purposes, or upon which two or more trailer coaches are parked for living purposes.
- 4.44 **Use first permitted (in a specified district).** A use which in the sequence of successively less restricted zoning districts occurs as a permitted use for the first time in the specified zoning district.
- 4.45 **Yard, front.** An open space extending the full width of the lot between any part of a building not hereinafter excepted and the front lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in section 19.70.
- a. *Front yard, least depth.* The shortest distance measured horizontally, between any part of a building, other than such parts as excepted in section 19.70, and the front lot line.
- 4.46 **Yard, rear.** An open space extending the full width of the lot between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in sections 6.07 and 19.70.
- a. *Rear yard, least depth.* The shortest distance, measured horizontally, between any part of the building, other than such parts as excepted in section 19.70, and the rear lot line.
- 4.47 **Yard, side.** An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as hereinafter specified in section 19.70.
- a. *Side yard, least width.* The shortest distance, measured horizontally, between any part of a building, other than such parts hereinafter excepted in section 19.70, and the nearest side lot line.

- b. *Street side yard.* A side yard on the street side of a corner lot.
- 4.48 **Zoning inspector.** The administrative officer or his authorized representative, appointed by the proper authority of the City of Frederick to administer and enforce the provisions of this ordinance.
- 4.49 **Zoning map.** The zoning district map of the City of Frederick, Maryland, and adjacent areas, adopted as part of this ordinance,² together with all amendments thereto subsequently adopted.
- 4.50 **Zoning certificate.** Written statement issued by the zoning inspector authorizing buildings, structures, or uses consistent with the terms of this ordinance and for the purpose of carrying out and enforcing its provisions. (Ord. No. G-73-26; Ord. No. G-73-28, § 1.)

Section 5.

DISTRICTS AND BOUNDARIES THEREOF.

- 5.00 For the purposes of this ordinance, the incorporated territory of the City of Frederick, Maryland, and the adjacent unincorporated territory extending one (1) mile beyond the corporate limits thereof, are hereby divided into the following districts:
- "R-1"—Rural Residence District
 - "R-2"—One-family Residence District
 - "R-3"—One-family Residence District
 - "R-T"—Townhouse and Multi-Family Residence District
 - "R-4"—Multi-family Residence District
 - "B-0"—Limited Business District
 - "B-1"—Shopping Center District
 - "B-2"—Central Business District
 - "B-3"—General Business District
 - "M-1"—Light Industrial District

2. **Editor's note.** — The zoning district map is not set out in this volume. It is on file in the office of the zoning inspector, together with all amendments thereto.

"M-2"—General Industrial District

"M-O"—Planned Industrial District

- 5.01 The boundaries of these districts are hereby established as shown on the zoning map of the City of Frederick, Maryland, and vicinity, which map is hereby made a part of this ordinance. The said "zoning map" and all notations and references and other matters thereon shall be and are hereby made part of this ordinance. Said "zoning map", properly attested, shall be and remain on file in the office of the zoning inspector of the City of Frederick.
- 5.02 Except where referenced on said map to a street line or other designated line by dimensions shown on said map, the district boundary lines are intended to follow property lines, lot lines, or the centerlines of streets, railroads, alleys, or waterways, as they existed at the time of the adoption of this ordinance; but where a district line obviously does not coincide with a property line, lot line, or such centerline, or where it is not designated by dimensions or otherwise clearly defined, its location shall be determined by the scale on the map.
- 5.03 Where a district boundary line as established in this section or as shown on the zoning map divides a lot which was in single ownership and of record at the time of enactment of this ordinance, the use authorized thereon and the other district requirements applying to the least restricted portion of such lot under this ordinance shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within fifty (50) feet of said dividing district boundary line. The use so extended shall be deemed to be conforming.
- 5.04 Questions concerning the exact location of district boundary lines shall be determined by the board of appeals as provided in subsection 21.32, and in accordance with rules and regulations which it may adopt.
- 5.05 Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning districts

adjoining the sides of such public way shall be automatically extended, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended district or districts.

- 5.06 In every case where territory has not been specifically included within a district, or where additional territory may come within the territorial limits over which the City of Frederick has zoning jurisdiction, by reason of annexation or otherwise, such territory shall automatically be classified in the "R-1" District until otherwise classified. (Ord. No. G-73-21, § 1.)

Section 6.

GENERAL PROVISIONS.

- 6.01 **Conformance required.** Except as hereinafter specified, no land, building, structure, or premises shall hereafter be used, and no building or part thereof or other structure shall be located, erected, reconstructed, extended, enlarged, converted or altered, except in conformity with the regulations herein specified for the district in which it is located.
- 6.02 **Continuing existing uses.** Except as provided hereinafter, any use, building, or structure lawfully existing at the time of the enactment of this ordinance may be continued, even though such use, building, or structure may not conform with the provisions of this ordinance for the district in which it is located. An existing use or building located in a district in which such use or building is classified herein as a "conditional use" may continue as though it were an authorized conditional use, but may not be changed or enlarged without further authorization as for a new conditional use.
- 6.03 **Nonconforming uses.** No existing building or premises devoted to a use not permitted by this ordinance in the district in which such building or premises is located,

except when required to do so by law or order, shall be enlarged, extended, substituted, or structurally altered, unless the use thereof is changed to a use permitted in the district in which such building or premises is located except as follows:

6.031 **Substitution.**

6.0311 If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification.

6.0312 Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such

- use shall not thereafter be changed to a less restricted use.
- 6.0313 When authorized by the board of appeals, according to the provisions of subsection 21.351, one nonconforming use may be substituted for another nonconforming use.
- 6.032 **Discontinuance.**
- 6.0321 No building, structure, or premises where a nonconforming use has ceased for two (2) years or more shall again be put to a nonconforming use.
- 6.0322 All nonconforming uses of land not involving any building or structure may be continued for a period of two (2) years after the date of enactment of this ordinance, at the end of which period every such nonconforming use shall cease or shall be changed to a conforming use; provided, however, that this requirement shall not apply to sand and gravel pits, quarries, or mines that conform or are made to conform to all of the distance and operating requirements applying to such uses under subsection 18.41.
- 6.0323 All nonconforming buildings or structures each having an assessed value for tax purposes of five hundred dollars (\$500) or less as of the date of the enactment of this ordinance, and all nonconforming signs, billboards, or commercial advertising structures, may be continued for a period of three (3) years after the date of enactment of this ordinance, at the end of which period every such nonconforming building and structure shall be made to conform with the regulations herein or shall be removed.
- 6.0324 Any nonconforming building or use existing on the effective date of the adoption of these regulations may continue, except as provided herein; provided, that the owner of such nonconforming use shall not create a nuisance or allow the use to deteriorate and adversely affect the surrounding neighborhood. Whenever the zoning inspector shall discover or be informed that a nuisance does exist or that the neighborhood is becoming deteriorated because of the existence of the use it shall be his duty to make immediate investigation, and if in his judgment any violation of this regulation does exist, he shall forthwith give

notice to the owner of the nonconforming use to abate such condition within such reasonable time as may be prescribed in such notice. If the owner of the nonconforming use does not abate the condition to the satisfaction of the zoning inspector he shall be given notice to change, discontinue or remove the nonconforming use within 6 months of the date of the notice. The owner of any building or use affected by this regulation may apply to the board of appeals for a variance authorizing an extension of time, based on such facts as may be set forth showing that the neighborhood has not depreciated, or that in its current condition the neighborhood is not likely to benefit from the change or removal of the building or use, or that because of adjacent uses or buildings or other special situation or condition of adjacent property the change or removal of such building or use would be untimely and would cause unnecessary hardship without accomplishing the purpose of this ordinance; and the board may authorize an extension of time. Nothing shall preclude an application for an additional extension of time. If an extension of time is denied, the owner shall have a period of one (1) year from the date of such denial to change, terminate, or remove the building or use, and no further extension of time shall be permissible. No variance for an extension of time shall be authorized except in accordance with the rules and procedures in section 21.

6.0325 No nonconforming building or use shall have any goods on outside display, nor any advertising on the building or windows, except that an identification sign displaying the name and nature of the establishment shall be permitted if such sign does not exceed two square feet in area for each fifty (50) feet or less of building frontage. (Ord. No. G-70-23, § 1.)

6.033 Extensions.

6.0331 A nonconforming use may be extended throughout those parts of the same building which parts were manifestly arranged, intended, or designed for such use at the time of the enactment of this ordinance.

- 6.0332 When authorized by the board according to the provisions of subsection 21.352, the extension or completion of a building devoted to a nonconforming use upon a lot occupied by such building or on a lot adjoining may be made.
- 6.034 Replacing damaged buildings. Any nonconforming building or structure or group of related buildings and structures comprising one enterprise or establishment and under one ownership, which may be damaged

more than seventy-five (75) per cent of its then fair market value exclusive of the foundations at the time of damage by fire, flood, explosion, war, riot, or act of God, shall not be restored or reconstructed and used as before such happening; but if less than seventy-five (75) per cent damaged exclusive of the foundation, or if required to be removed because of a public improvement, it may be restored, reconstructed or used as before provided it be done within two (2) years.

6.04 **Unsafe buildings.** Nothing in this ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by proper authority.

6.05 **Pending applications for zoning certificate.** Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any development, building, structure or part thereof, for which official approvals and required zoning certificates have been granted before the enactment of this ordinance, the construction of which conformably with such plans shall have been started within twelve (12) months after the effective date of this ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builders' control.

6.06 **Rear dwellings.** Except on a farm, and except as provided for dwelling groups, no more than one dwelling shall be permitted on a lot as herein defined; and no dwelling shall be permitted in the rear of another dwelling except where each dwelling is located on a lot as herein defined.

6.07 **Accessory buildings.**

6.071 No accessory building shall be erected in any required court or in any yard other than a rear yard, except as provided hereinafter. Accessory buildings not over one and one-half ($1\frac{1}{2}$) stories in height may occupy not to exceed thirty (30) per cent of the required minimum area of a rear yard, and shall be distant at least six (6) feet from alley lines and from any other separate building or other structure on the same lot, and at least three (3) feet from lot lines of

adjoining lots which are in any "R" District; provided, however, that an accessory building may be permitted on a side or rear lot line, not an alley lot line, by common consent of the adjoining property owners concerned.

- 6.072 Accessory buildings, except stables, may be erected as a part of the principal building, or, if at least six (6) feet therefrom, may be connected thereto by a breeze-way or similar structure, provided all yard requirements for a principal building are complied with.
- 6.073 In any "R" District, where a corner lot adjoins in the rear a lot fronting on the side street and located in an "R" District, whether such rear lot adjoins directly or is across an alley, no part of an accessory building on such corner lot, within twenty-five (25) feet of the lot line or center line of the alley, shall be nearer the side street lot line than the least depth of the front yard required along such side street for a dwelling on such adjoining lot, and in no case shall any part of an accessory building, wherever located on the lot, be nearer to the side street lot line than the least width of the side yard required for the principal building to which it is accessory, nor nearer to the common lot line or center line of the alley than the side yard width required for a principal building on such adjoining lot.
- 6.08 **Required yard cannot be reduced.**
- 6.081 No lot shall be reduced in area so as to make any yard or any other open space less than the minimum required by this ordinance, and if already less than the minimum required, said yard or open space shall not be further reduced. No part of a yard or other open space provided about any building or structure for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required under this ordinance for another building or structure.
- 6.082 Off-street parking and loading areas may occupy all or part of any required yard or other open space except as specified in sections 17.12 and 17.20.
- 6.09 **Off-street parking and loading.** In any district, spaces for off-street parking and for loading or unloading

shall be provided in accordance with the provisions in section 17.

- 6.10 **Transitional uses.** In any "R-1", "R-2", or "R-3" District, a transitional use shall be permitted on a lot the side lot line of which adjoins, either directly or across an alley, a "B" or "M" District. The permitted transitional uses for any such lot shall be of any use permitted in the "R-4" District. In such case, the requirements governing lot area per family, off-street parking, yards and other open spaces, shall be the same as in an "R-4" District. Any transitional use shall not extend more than seventy-five (75) feet from the side lot line of the lot which adjoins the district boundary line.
- 6.11 **Front yards on lots running through the block.** In any district where a lot runs through a block from street to street, and where a front yard is required, such front yard shall be provided along each street lot line other than a side street lot line.
- 6.12 **Front yard depths, how measured.** The minimum front yard depths, as specified, shall be measured from the recorded street right-of-way lines, except that where the street is to be widened as designated by the official major street plan of Frederick City, or the official major road plan of Frederick County, then the future street right-of-way lines so established shall govern; provided, however, that where these lines may be modified or supplemented by an officially adopted street or road widening or location plan, attested copy of which has been filed with the zoning inspector, the latter shall control. In case of uncertainty as to the established right-of-way line, where a street or road is proposed for improvement, the state roads commission, county highways department, or city engineer, as the case may be, shall be allowed not over sixty (60) days from the date of the application for a zoning certificate within which to establish the existing or future right-of-way line. For the purpose of measuring front yards, no street or road shall be considered as having an established right-of-way less than fifty (50) feet wide.

6.13 Court requirements.

6.131 Where a court is provided in any building, except a detached single-family dwelling, for the purpose of furnishing light and air to rooms in which persons are to live, sleep, or work, except storage rooms, such court shall be an outer court (open on one side) the least dimensions of which shall be as follows:

6.1311 *Least width:* (a) For residential buildings, other than a single-family dwelling, the sum of heights of building wings opposite one another, but not less than forty (40) feet; (b) for non-residence buildings in "B" or "M" Districts, two-thirds the sum of heights of building wings opposite one another, but not less than thirty (30) feet.

6.1312 *Maximum depth:* One and one-half (1½) times the width.

6.14 **Yard requirements along zoning boundary line in the less restricted district.** Along any zoning boundary line, on a lot adjoining such boundary line in the less restricted district, any abutting side yard, rear yard, or court, unless subject to greater restrictions or requirements stipulated by other provisions of this ordinance, shall have a minimum width and depth equal to the average of the required minimum widths or depths for such side yards, rear yards, or courts in the two districts on either side of such zoning boundary line. In case the height of the proposed structure on such lot in the less restricted district is greater than the maximum height permitted in the adjoining more restricted district, the minimum width or depth of the side yard, rear yard, or court for such structure shall be determined by increasing the minimum width or depth required for the highest structure permitted in such more restricted district by one (1) foot for each two (2) feet by which the proposed structure exceeds the maximum height permitted in said more restricted district.

6.15 **Traffic visibility across corner lots.** In any "R" District on any corner lot, no fence, structure or planting shall be erected or maintained within twenty (20) feet of the "corner" (intersection of the street right-

of-way lines) that would interfere with traffic visibility across the corner.

- 6.16 Conversion of dwelling.** The conversion of a building into a dwelling, or the conversion of a dwelling so as to accommodate an increased number of dwelling units or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district.
- 6.17 Essential services exempted.** Essential services, as defined in subsection 4.16, shall be permitted in any district, as authorized and regulated by law and ordinances of the City of Frederick or of Frederick County, it being the intention hereof to exempt such essential services from the application of this ordinance.
- 6.18 Distance requirements.** All uses, buildings, or premises for which compliance with the distance requirements in this subsection is stipulated elsewhere in this article, shall be distant at least one hundred (100) feet from any lot in any "R" District, or from any lot in the "B-0" District which is occupied by a dwelling, school, church, or any institution for human care.
- 6.19 Signs, how measured.** The area of a billboard or other sign shall be the product of its greatest horizontal and vertical dimensions, measured over its entire face including background and borders, but excluding supports; provided, that where a sign consists only of lettered, figured, pictorial matter, device or representation applied directly to the surface of a building, without special background or border, then its area shall be determined by measuring the over-all length and height of the lettering or other matter. (Ord. No. G-264, § 1)
- 6.20 Structural or land development in floodplains.** No structure or land development of any nature whatsoever, including, but not limited to, parking lot, fill or excavation shall be permitted within the 100-year floodplain except in

conformance with the requirements of the Annotated Code of Maryland, Natural Resources Article, Title 8, subtitle 8, 1974 Edition, as amended. (Ord. No. G-70-55, § 1; Ord. No. G-82-18, § 1, 10-7-82)

- 6.21 Condominium projects.** In any R-3, R-T or R-4 district where a multi-family project is established as a condominium, such projects shall be subject to the requirements of the Horizontal Property Act, article 21, sections 117-A through 142, of the Annotated Code of Maryland, 1957 Edition. (Ord. No. G-73-9, § 1)

Editor's note—Ord. No. G-73-9 designated this section as 6.20. Since a § 6.20 already existed, this section has been redesignated as 6.21.

6.22 Site plan review.

- (a) *General.* All structures and uses or changes thereto, must submit and have approved site development plans prior to the issuance of a zoning certificate and building permit.

The planning commission shall review the site plans for new townhouses and apartment construction, commercial and industrial construction, including additions to existing facilities that would add twenty-five (25) per cent or more to the floor area of such facilities, and all new construction or renovation or additions to institutional and public buildings. In all other instances, projects requiring site plan shall be reviewed by the city engineer. The approved site plan shall be submitted at the time of the application for the zoning certificate and building permit. The approved site plan shall expire one year after date of the issuance of the building permit unless substantial construction or alteration has begun.

Appeal from a decision of the city engineer shall be made in writing to the Frederick City Planning Commission. Appeal from a decision of the Fred-

erick City Planning Commission shall be to the circuit court for Frederick County, pursuant to Maryland law.

(b) *Required information.*

- (1) Plat of site at a scale no smaller than one inch equals fifty (50) feet.
- (2) Vicinity map at a scale of one inch equals two thousand (2,000) feet or more to the inch, indicating the location of the property with respect to surrounding property and streets. The map will show all streets and highways within one thousand (1,000) feet of the applicant's property.
- (3) Topographic map of the property at a minimum of five-foot contour intervals, unless otherwise specified, showing the existing and proposed regrading surface of the land and the location of natural features, such as streams, rock outcrops and wooded areas.
- (4) A site plan showing all existing and proposed improvements, including location, proposed use and height of all buildings; location of all parking and truck-loading areas, with access and egress drives thereto; location of any outdoor storage; location and type of recreational facilities; proposed grading, landscaping and screening plans; description of proposed method to provide buffer areas and landscaping where required; location and design of outdoor lighting facilities; provisions for storm drainage; and the location, size and type of all signs.
- (5) A computation of the total area of the lot, the building floor area for each type of proposed use, the building coverage, and the streets and parking.
- (6) Commercial or manufacturing uses will designate the specific uses proposed; the number of employees for which buildings are designed;

type of wastes or byproducts to be produced by any process and proposed method of disposal of such wastes or byproducts; and such other information as may be required by the city engineer or the planning commission to determine the impact of a particular use on adjoining properties.

- (7) Scale and sheet size. Site plans will be prepared to a scale of not smaller than one inch equals one hundred (100) feet, unless approved by the city engineer. The sheet or sheets shall be no less than eighteen (18) inches by twenty (20) inches, nor more than twenty-four (24) inches by thirty-six (36) inches, including a one and one-half (1½) inch margin for binding along the left edge. A site plan may be prepared on one or more sheets, in which case, match lines and an index sheet shall be provided.

(c) *Guidelines.*

- (1) The guidelines for parking, parking areas, lighting, access and egress drives, streets, and screening or landscaping shall be those as set forth in Section 17 of this ordinance, said section being entitled "Off-Street Parking and Loading Facilities." The guidelines for signs and common areas shall be the same as those set forth in the particular district or zone in which the proposed construction is located.
- (2) Access. In addition to the access and egress guidelines in Section 17, the planning commission shall have the right to approve or disapprove any point of ingress to or egress from the site under consideration. In approving ingress to or egress from any state highway, only those points of access and egress which shall also be acceptable to the state highway administration can be approved. The internal

vehicular and pedestrian circulation system shall be reviewed and approved only if the design provides safe internal circulation for vehicles and pedestrians and allows for safe and efficient service by a solid waste collection and emergency type vehicles.

- (3) The on-site drainage plans shall provide for sediment control, retention ponds or detention ponds to hold the storm drainage for the one large storm that might occur in a ten-year period after development and providing for the release of waters restrained on the basis of the largest storm that might have occurred in a two-year period preceding development. (Ord. No. G-74-1, § 1; Ord. No. G-77-4, § 1, 5-19-77; Ord. No. G-80-3, § 1, 2-7-80)

- 6.23 Conversion of condominium projects.** Where a developer desires to convert an existing or proposed condominium project into a noncondominium subdivision, the conversion shall be subject, where applicable, to all requirements for discontinuance of a condominium under the Real Property-Condominium Act, Title 11, Annotated Code of Maryland, 1974, and as amended, and shall be further subject to planning commission approval under the subdivision regulations of Frederick City; provided that in the event of such conversion, the planning commission shall have the authority to make any necessary changes to the design plan, including varying yard and area requirements, in order that the design conform as closely as possible to the zoning ordinance and subdivision regulations. Nothing contained herein shall be construed as authorizing the developer to construct, or the planning commission to allow additional dwelling units or more commercial or industrial floor space than was present in the original condominium concept. (Ord. No. G-75-50, § 1)

6.24 Landscaping.

- (a) *Purpose.* The purpose of landscaping is to aid in reducing the harmful effects of noise, dust, glare of artificial lights, and wind; to facilitate drainage, control storm water runoff, aid in the return of surface water to the groundwater system, and prevent soil erosion; to aid in air purification; to aid in the compatibility of land uses by providing a buffer or screening effect between land uses; to enhance the natural environment by reducing the visual effect of unsightly activities, and to generally create an aesthetically pleasing appearance.
- (b) *Definition.* Landscaping includes trees, shrubs, grass, flowers and similar cover.
- (c) *Landscaping standards.* Where landscaping is required by this ordinance, a plan shall be submitted which shall be drawn to scale, including dimensions and distances, and clearly delineate all existing and proposed landscaping by type and size.
 - (1) All evergreen trees required under this ordinance shall be at least four (4) feet tall at the time of planting. All deciduous trees required under this ordinance shall have a minimum caliber of one inch at the time of planting. Generally, trees required under this ordinance shall be planted in an irregular line and spaced at random. Existing landscaping which complies with the minimum standards may be used to meet these requirements.
 - (2) Parking lot landscaping in all B Districts and the M-0 District. Any parking lot of twenty (20) or more spaces shall be provided with interior landscaping covering not less than five (5) per cent of the area of the parking lot. Such landscaping shall be in addition to that required under section 6.24(c) (3), and shall be reasonably dispersed throughout the lot.

- (3) Property line landscaping in all B Districts and the M-0 District.
- (i) Where a property line abuts the right-of-way of a street or R District, a landscaping strip eight (8) feet in width which shall not include a sidewalk or parking lot shall be provided except where driveways or other openings onto the street are found. At least one evergreen tree and one deciduous tree, but not less than one each, shall be planted and maintained for every fifty (50) feet or part in excess of thirty (30) feet within this planting strip.
 - (ii) Along other property lines, a landscaping strip four (4) feet in width which shall not include a sidewalk or parking lot shall be provided. At least one evergreen tree and one deciduous tree, but not less than one each, shall be planted and maintained within this strip for every one hundred fifty (150) feet or part in excess of one hundred (100) feet.
- (4) In M Districts other than M-0, a planting strip eight (8) feet in width which shall not include a sidewalk or parking lot shall be provided in the front yard, except where driveways or other openings onto the street are found. At least one evergreen tree and one deciduous tree, but not less than one each, shall be planted and maintained within this strip for every one hundred (100) feet or part in excess of sixty (60) feet.
- (5) In an R zone one the rear property line of a through lot, at least one evergreen tree and one deciduous tree, but not less than one each, shall be planted and maintained for

every fifty (50) feet, or part in excess of thirty (30) feet.

- (d) *General.* All required landscaping shall be installed within six (6) months of the issuance of an occupancy permit. The owner or his agent shall be responsible for the maintenance, repair and replacement of all landscaping materials as may be required under this ordinance. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary, and kept free of refuse and debris. The zoning administrator shall require the replacement of trees required under this ordinance by the owner or his agent within six (6) months if such trees die or are destroyed.
- (e) The planning commission may require existing trees which meet the minimum standards of the ordinance to be preserved. The zoning administrator shall have the authority to require replacement of such trees destroyed during site development.
- (f) Appeal from the decision of the zoning administrator shall be to the Frederick City Planning Commission. (Ord. No. G-78-23, § 1, 11-16-78)

6.25. Parkland requirements.

- (a) *Purpose.* The purpose of this section is to implement the provisions of the comprehensive plan, especially as they relate to the provision of recreation areas; to control congestion; to promote health and the general welfare; to provide adequate light and air; to promote the conservation of natural resources and natural hazards areas; to prevent environmental pollution; to avoid undue concentration of population; and to facilitate the adequate provision of recreation and parks.

These regulations have been made with reasonable consideration of, among other things, the demands for park area created by residential developments of different types and densities; the need to apply the parkland dedication requirements uniformly regardless of the size of the project or the number of additional dwelling units created; and the need to grant certain reasonable exceptions from these regulations to those projects which have obtained a certain level of approval, are progressing on the basis of those approvals in a timely fashion, and which have already made parkland dedications or commitments which are reasonably consistent with public parkland needs as established in the comprehensive plan and in these regulations.

- (b) *Parkland standards.* The amount of parkland which shall be dedicated to the city in residential developments is a minimum of five (5) per cent of the gross land area plus an additional percentage of the gross land area based on the density of the proposed development. The amount to be dedicated is as follows:

<i>Density Range</i>		<i>Base Dedication</i>	<i>Additional Dedication</i>	<i>Total Dedication</i>
Low:	1—3.5 units/acre	5%	0	5%
	3.6—5 units/acre	5%	2%	7%
Medium:	5.1—9 units/acre	5%	5%	10%
	9.1—11 units/acre	5%	7%	12%
High:	11.1—19 units/acre	5%	10%	15%
	19.1—30 units/acre	5%	15%	20%
	30.1 or more units/acre	5%	20%	25%

For purposes of this subsection, a unit (dwelling unit) shall be defined as a room or group of rooms forming a single residential unit with facilities for living, sleeping and cooking purposes which are exclusively used for the family living therein.

Area in the development devoted to streets, drives, parking areas and private yards shall not be

counted towards meeting parkland requirements in this section.

No more than seventy-five (75) per cent of the area required to be dedicated shall be within a floodplain or have an average slope in excess of eight (8) per cent, unless these standards are waived by the commission for a specified reason not contrary to the intent of this section.

- (c) *Planning commission review of proposed dedications.* The planning commission shall review each proposed dedication for its suitability for public recreation in terms of its location; accessibility; topography; shape; size; relationship to surrounding properties, especially other park areas; and the comprehensive plan. In general, no proposed dedication shall be acceptable if it does not by itself or in conjunction with other abutting park areas result in a parcel at least three (3) acres in size.

If the commission deems the proposed dedication to be unsuitable for public recreation purposes in whole or in part, the commission shall require the dedication of another area on the property which is suitable. If no suitable dedication can be made on the property, the commission shall require the owner to pay a fee to the city equal to the market value of unimproved land as determined by assessed value which would have been required. This fee shall be used by the city to provide public recreation sites or facilities which are available to the residents of the development in question. A combination of a fee and a minimum dedication of land may be deemed appropriate.

If a proposed dedication does not by itself or in conjunction with other abutting park areas result in a parcel of at least three (3) acres in size, the planning commission may approve a combination of a public fee and land dedication to private,

rather than public ownership. The private owner shall be either a homeowners' association created under the provisions of this ordinance or the owner of a multifamily project. The combination of fee and private dedication shall meet the standard prescribed by subsection 6.25(b). However, the private dedication shall not exceed thirty-seven and five-tenths (37.5) per cent of the total parkland area required. This percentage represents the portion of total parkland made up by neighborhood parks as prescribed by the comprehensive plan.

All other requirements of section 6.25 which apply to public dedication shall also apply to a proposed private dedication.

- (d) *Park improvements required.* Before any proposed park dedication shall be accepted by the city, the site shall be cleared of debris, weeds and other undesirable material and graded and the surface stabilized at the expense of the owner of the property in accord with a plan prepared by the owner which has been reviewed and approved by the city planning commission. No final subdivision plat, site plan or building permit/zoning certificate shall be approved by the planning commission or zoning administrator for the development in question until a satisfactory guarantee by the owner of the site improvements required by this section is accepted by the board of aldermen.
- (e) *Applicability.* The provisions of this section shall be applicable to all properties in the city which are proposed to be developed or redeveloped for residential purposes in a manner which will increase the number of units from that which presently exists on the property, except those projects which meet any one of the following conditions at the time this section is adopted:

- (1) All lots in all sections of a subdivision have been approved and recorded; or
- (2) An overall concept plan or preliminary plan has been approved and is serving as the basis for actual development and building permits have been issued for eighty (80) per cent of the proposed units; or
- (3) An overall concept plan or preliminary plan has been approved and is serving as the basis for actual development and dedication of parkland to public or private ownership has been made or is committed by the owner through approved plans which is equal to at least seventy-five (75) per cent of that which would have been required under the provisions of subsection 6.25(b).

The parkland dedication or payment of equivalent fee shall be made at the step in the development/redevelopment process which is first applicable to the property in question—preliminary subdivision, final subdivision, site plan or building permit/zoning certificate.

- (f) *Clustering.* If the clustering technique is used, the land accumulated which is not part of a building lot may be used to satisfy the requirements for parkland in whole or in part, provided all other requirements of this section are met.
- (g) *Provisions inapplicable to certain subdivisions.* This section shall not apply to subdivisions which meet all the following conditions:
 - (1) The tract of land being subdivided contains no more than one occupied dwelling unit.
 - (2) The purpose and result of the subdivision shall not yield more than one additional dwelling unit.
 - (3) Property owner initiating subdivision request shall not own any adjacent property. (Ord. No. G-80-7, § 1, 6-12-80; Ord. No. G-82-1, § 1, 1-7-82)

6.26 Homeowners' associations.

6.261 *Purpose.* The purpose of this section is to assure that homeowners' associations are properly established, operate effectively and are financially sound so that the property values within and around the development controlled by such associations are enhanced and protected and that public responsibility for maintenance of common property and facilities is minimized. (Ord. No. G-80-41, § 1, 12-4-80)

6.262 *Documents review.* Before a site plan and subdivision plat shall be approved for a development which will include a homeowners' association and/or common property, the planning commission and/or planning department shall review and approve the proposed articles of incorporation, association bylaws, covenants and any other requested association documents. At a minimum, these documents shall include the following provisions:

- (a) Membership shall be mandatory for all property owners.
- (b) Nonpayment of any annual, special or other assessment by a property owner shall automatically become a lien against his property; a procedure shall be established to allow the collection by the association of such unpaid assessments.
- (c) Common areas shall be assured of preservation and maintenance.
- (d) The association's board of directors shall be required to prepare an annual operating budget; the budget shall be based on estimated expenses for the operation of the association, or, if available, actual expenses for the previous budget period adjusted for inflation and any surplus; the budget shall include an allowance for a contingency fund equal to at least ten (10) per cent of estimated or actual expenses; the board of directors shall be required to set an annual assessment for each lot owner in an amount sufficient to satisfy the approved budget requirements; it shall be required that the budget proposed by the board of directors be reviewed for adequacy by an independent certified public accountant prior to approval and that a copy of the accountant's report be supplied to the city treasurer.

- (e) A capital asset replacement fund shall be created by the developer and maintained by the association with annual appropriations required of the lot owners to the fund from the date of transfer of common properties and facilities based on the replacement value of all common properties and facilities and their expected life; such fund shall not be used to finance operating and maintenance costs; it shall be required that the adequacy of the replacement fund be reviewed by a certified public accountant every three (3) years following the date of transfer and that a copy of the accountant's report be supplied to the city treasurer.
- (f) The documents shall provide for mandatory special assessments to meet unforeseen or special expenditures as well as any budget deficit. (Ord. No. G-80-41, § 1, 12-4-80)

6.263 *Transfer of assets.* Before a site plan or subdivision plat shall be approved for a development which will include property and/or facilities owned in common by an association, the developer shall provide for the regular inspection of such property and/or facilities during construction by a registered professional engineer who is neither an employee of the developer nor a resident or landowner in the development, the cost of such inspection to be borne by the developer; such inspector shall be given the authority to stop the work, reject inferior materials or workmanship, and take such steps as may be necessary to insure the proper completion of the work; such inspector shall make periodic written reports to the association and, upon the completion of such property and/or facilities, shall certify to the association that such property has been developed in compliance with plans and specifications approved by the city engineer. (Ord. No. G-80-41, § 1, 12-4-80)

6.264 *First year's operating budget review.* The developer shall prepare the first year's operating budget for the

association and shall submit such budget to the planning commission along with the proposed association documents prior to the approval of a site plan and subdivision establishing an association. (Ord. No. G-80-41, § 1, 12-4-80)

6.265 *Capital fund review.* The developer shall establish the capital asset replacement fund described in subsection 6.262(e) and shall submit written explanation of the fund to the planning commission along with the proposed association documents prior to the approval of a site plan and subdivision establishing an association. (Ord. No. G-80-41, § 1, 12-4-80)

6.266 All areas to be owned by the association shall be shown on the record plat. (Ord. No. G-80-41, § 1, 12-4-80)

SECTION 7. R-1—RURAL RESIDENCE DISTRICT

7.00 The following regulations and the applicable regulations contained in other sections shall apply in the R-1 Rural Residence District.

7.10 **Principal permitted uses.**

7.101 Single-family detached dwellings.

7.102 Churches, church schools, and parish houses.

7.103 Schools and colleges for academic instruction, including customary accessory buildings such as dormitories,

association and shall submit such budget to the planning commission along with the proposed association documents prior to the approval of a site plan and subdivision establishing an association. (Ord. No. G-80-41, § 1, 12-4-80)

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7.10 **Principal permitted uses.**

7.101 Single-family detached dwellings.

7.102 Churches, church schools, and parish houses.

7.103 Schools and colleges for academic instruction, including customary accessory buildings such as dormitories, dining halls, gymnasiums, swimming pools, studios, laundries, and heating or power plants.

7.104 Public buildings and properties of a cultural, administrative, or public service type, such as libraries, art galleries, or museums, but not including such uses as storage yards, warehouses, or garages.

7.105 Public parks, playgrounds, community centers, golf courses, and other public recreational facilities.

- 7.106 Farms, gardens, orchards, nurseries, and greenhouses; provided that any heating plant or any building in which farm animals are housed shall be distant at least two hundred fifty (250) feet from any nonfarm dwelling and from any other lot in an R District.
- 7.107 Above or belowground storage of liquefied petroleum gases not to exceed two thousand (2,000) gallons (see also section 18.90).
- 7.20 **Conditional uses requiring appeals board authorization.**
- 7.201 Country clubs, golf courses, swimming clubs, and other private noncommercial recreation or social facilities and areas, not operated as a business for profit; provided, that any principal building or swimming pool shall be located at least one hundred (100) feet from any other lot in an R District.
- 7.202 Hospitals, sanitoriums, and convalescent or nursing homes, public or private, except those primarily for the insane, feeble-minded, contagious diseases, or chronic alcoholics or drug addicts; religious or charitable institutions; provided, that any such buildings shall be located at least one hundred (100) feet from any other lot in an "R" District.
- 7.203 Cemeteries; provided, that no grave or burial lot shall be located in the required front yard or required street side yard.
- 7.204 Airports and landing fields, publicly or privately owned; provided, that all runways, landing strips, taxiways, and other installations or parts of the airport or landing field normally used for aircraft operation shall be located at least five hundred (500) feet from any property line, that all hangars, storage buildings, repair shops, and any other buildings or structures shall be located at least two hundred (200) feet from any property line, and that the property lying in the line of flight at each end of any landing strip be clear of, and satisfactory arrangements be made to keep it clear of, any dwelling, school, church, or any institution for human care located in any R or B District, for a distance of one-half mile from the end of the runway and a width of one thousand (1000) feet.

erty line, that all hangars, storage buildings, repair shops, and any other buildings or structures shall be located at least 200 feet from any property line, and that the property lying in the line of flight at each end of any landing strip be clear of, and satisfactory arrangements be made to keep it clear of, any dwelling, school, church, or any institution for human care located in any "R" or "B" District, for a distance of one-half mile from the end of the runway and a width of 1000 feet.

7.205 Quarrying, mining, and transportation of stone, gravel, sand, soil, or clay (but not including any processing) ;

- 7.205 Quarrying, mining, and transportation of stone, gravel, sand, soil, or clay (but not including any processing); provided:
- (a) That any building housing power-driven or power-producing machinery or equipment shall be distant at least five hundred (500) feet from all adjacent property or road lines;
 - (b) That the extractive operations shall be confined to areas at least 50 feet distant from all adjoining property and one hundred (100) feet from any principal building on any adjoining property; and
 - (c) That the requirements in section 18.40 shall be complied with in all respects.
- 7.206 Radio and similar communications towers, broadcasting stations, and equipment; provided, that every such tower shall be located as far from its lot lines, in every direction, as the height of the tower, that every building housing such facilities shall be located at least fifty (50) feet from each lot line, and that the style and appearance of such structure shall be in harmony with their surroundings.
- 7.207 Public utility and public service structures and properties other than essential services defined in subsection 4.16, and which must necessarily, from a functional standpoint, be located in a particular place, such as a telephone exchange or wire center, an electric substation, a water treatment plant, tank, standpipe, or pumping station, a sewage pumping station or treatment plant, a railroad line, or a cross-country pipe line, electric transmission line, or telephone cable; but not including any power plants, or any buildings or yards for production, construction, maintenance, or storage purposes, or any railroad yards, depots, or terminal facilities; provided, that the style and appearance of any such permitted structure shall be in harmony with its surroundings.
- 7.208 Above or belowground storage of liquefied petroleum gases exceeding two thousand (2,000) gallons.
- 7.209 Part-time or full-time home occupation provided:

- (1) That except for a permitted employee as noted below, no vehicular traffic shall be generated as a result of such home occupation; and
- (2) It is clearly incidental to or secondary to the residential use of a dwelling unit; and
- (3) It is carried on totally within a dwelling unit by one or more residents and no more than one person not residing in such dwelling unit; and
- (4) It occupies not more than twenty (20) per cent of the total floor area of such dwelling unit, and in no event more than three hundred (300) square feet of floor area, and shall be confined to one floor; and
- (5) It does not display or create any external evidence that the building is being used for any purpose other than a dwelling unit; and
- (6) There is no separate building entrance for the home occupation. (Ord. No. G-82-5, § 1, 3-18-82)

7.30 Accessory uses. Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including:

7.301 The studio of an artist or musician for practice or teaching; provided, that any such studio shall be in his home and purely incidental thereto, and that there shall be no employee or advertising sign.

7.302 Repealed by Ord. No. G-82-5, § 1, adopted March 18, 1982.

7.303 A private garage or parking area for not more than three (3) motor vehicles in the case of a one-family dwelling and its accessory uses, plus one parking space for each additional dwelling unit; or a private garage or parking area accessory to any other permitted use adequate to meet its requirements.

7.304 Summerhouses, private swimming pools, and other customary incidental structures.

7.305 Temporary real estate signs, subject to the provisions of section 18.22.

7.306 Temporary buildings including trailers, for uses incidental to construction work, which buildings shall comply with

requirements of the health department and shall be removed upon the completion or abandonment of such work.

- 7.307 One bulletin board or sign not exceeding twenty-four (24) square feet in

area for any permitted church, school, or other public or semipublic building.

- 7.308 The keeping of not more than two (2) roomers or boarders by a resident family.
- 7.309 Roadside stands offering for sale only neighborhood agricultural products and other items produced on the premises.
- 7.310 A private stable, if located at least two hundred fifty (250) feet distant from any other lot in any "R" District.
- 7.311 Farm signs identifying the farm and its products; provided, that any sign exceeding eight (8) square feet in area shall be considered to be a billboard and shall be subject to the restrictions applying to billboards.
- 7.40 **Height regulations.** No principal structure shall exceed two and one-half (2½) stories or thirty (30) feet in height, and no accessory structure shall exceed one and one-half (1½) stories or twenty (20) feet in height, except as provided in section 19.20 and except that farm structures may be built to any required height.
- 7.50 **Lot area, width, and yard requirements.** The following minimum requirements shall be observed, subject to the modified requirements in section 19.

	<i>Min. Lot Area Sq. Ft.</i>	<i>Min. Lot Width Feet</i>	<i>Lot Area per Family Sq. Ft.</i>	<i>Front Yard⁽¹⁾ (depth) Feet</i>	<i>Side Yards</i>		
					<i>Least Side (width) Feet</i>	<i>Sum of Both Sides Feet</i>	<i>Rear Yard (depth) Feet</i>
Dwellings . .	20,000 (²)	100 (²)	20,000 (²)	40	15	35	50
Churches . .	2 acres	200	—	40	25	50	50
Schools	5 acres	200	—	40	25	50	50
Public Utility uses	10,000(⁴)	50(⁴)	—	40	25	50	50
Other Permitted uses . .	20,000	100	20,000	40	25(³)	50(³)	50(³)

(¹) For built-up frontage, see section 19.41.

(²) For lots in approved subdivisions, see subsection 19.32.

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- (*) Or greater as may be specified elsewhere in this ordinance.
(*) Or greater if required by board of appeals.
(Ord. No. G-73-27)

SECTION 8. R-2—ONE-FAMILY RESIDENCE DISTRICT

- 8.00 The following regulations and the applicable regulations contained in other sections shall apply in the R-3 One-Family Residence District:
- 8.10 **Principal permitted uses.** Any principal use or structure permitted and as regulated in the R-1 District.
- 8.20 **Conditional uses requiring appeals board authorization.**
- 8.201 Country clubs, golf courses, swimming clubs, and other private noncommercial recreation or social facilities and areas, not operated as a business for profit; subject to the same conditions as specified in section 7.201.
- 8.202 Hospitals, sanitoriums, and convalescent or nursing homes, public or private, except those primarily for the insane, feeble-minded, contagious diseases, or chronic alcoholics or drug addicts; religious or charitable institutions; all subject to the same conditions as specified in section 7.202.
- 8.203 Cemeteries; provided, that no grave or burial lot shall be located in a required front yard or required street side yard.
- 8.204 Part-time or full-time home occupations as provided in subsection 7.209(1) through (6) of this Appendix A. (Ord. No. G-83-35, § 1, 9-15-83)
- 8.30 **Accessory uses.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-1 District.
- 8.40 **Height regulations.** Same as specified in the R-1 District.
- 8.50 **Lot area, width and yard requirements.** The following minimum requirements shall be observed, subject to the modified requirements in section 19:

	<i>Side Yards</i>						
	<i>Min.</i>	<i>Min.</i>	<i>Lot</i>	<i>Front</i>	<i>Least</i>	<i>Sum of</i>	<i>Rear</i>
	<i>Lot</i>	<i>Lot</i>	<i>Area</i>	<i>Yard(1)</i>	<i>Side</i>	<i>Both</i>	<i>Yard</i>
	<i>Area</i>	<i>Width</i>	<i>per</i>	<i>(depth)</i>	<i>(width)</i>	<i>Sides</i>	<i>(depth)</i>
	<i>Sq. Ft.</i>	<i>Feet</i>	<i>Family</i>	<i>Feet</i>	<i>Feet</i>	<i>Feet</i>	<i>Feet</i>
Dwellings	10,000	70	10,000	30	8	25	30
	(2)	(2)					

Other per-

mitted uses Same as specified in the "R-1" District.

(1) For built-up frontage, see section 19.41.

(2) Subject to requirements of subsection 19.31.

SECTION 9. R-3—ONE-FAMILY RESIDENCE DISTRICT

9.00 The following regulations and the applicable regulations contained in other sections shall apply in the R-3 One-Family Residence District.

9.10 **Principal permitted uses.** Any principal use or structure permitted and as regulated in the R-2 District.

9.20 **Conditional uses requiring appeals board authorization.**

9.201 Any conditional use or structure permitted and as regulated in the R-2 District.

9.202 Kindergartens, nursery schools, and child care centers when located not less than twenty (20) feet from any other lot in an "R" District, and provided there is a completely fenced and screened play lot of adequate size in connection therewith.

9.30 **Accessory uses.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-2 District, and also the following:

9.301 The keeping of not more than four (4) roomers or boarders by a resident family.

9.302 Tourist homes with not more than three (3) guest rooms, where located on a state or U. S. numbered highway.

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- 9.40 **Height regulations.** Same as specified in the R-1 District; except, that for garden housing projects authorized under section 18.30 the height limit shall be three (3) stories or forty (40) feet.
- 9.50 **Lot area, width, and yard requirements.** The following minimum requirements shall be observed subject to the modified requirements in section 19:

	<i>Side Yards</i>						
	<i>Min. Lot Area Sq. Ft.</i>	<i>Min. Lot Width Feet</i>	<i>Lot Area per Family Sq. Ft.</i>	<i>Front Yard⁽¹⁾ (depth) Feet</i>	<i>Least Side (width) Feet</i>	<i>Sum of Both Sides Feet</i>	<i>Rear Yard (depth) Feet</i>
Dwellings	6,000 (2)	09 (2)	6,000	25	8	18	30
Churches	1 acre	100	—	25	20	40	40
Public utility uses	5,000	50	—	25	10	20	40
Kinder- gartens, nursery schools, child care centers	20,000	100	6,000	25	20	40	40
Other per- mitted uses	Same as specified in the "R-1" District.						

(1) For built-up frontage, see section 19.41.

(2) Subject to requirements of section 19.31.

(Ord. No. G-73-12, § 1; Ord. No. G-73-13, § 1)

Section 9A. R-T—TOWNHOUSE AND MULTI-FAMILY RESIDENCE DISTRICT

- 9.80 The following regulations and the applicable regulations contained in other sections shall apply in the R-T Residence District. (Ord. No. G-70-26)
- 9.801 **Principal permitted uses.** Any principal use or structure permitted in the R-3 District. (Ord. No. G-70-26)
- 9.801.1 **Duplex and two-family dwellings.** Duplex and two-family dwellings for the purpose of this ordinance are
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considered single-family dwelling units attached with a common wall. A ceiling cannot be considered a wall. (Ord. No. G-76-15, § 1, 7-8-76)

9.802 Townhouses. For the purpose of this ordinance, townhouses are single-family dwelling units constructed in a series or group including more than three (3) units with some common walls. As such, they are a special type of single-family dwelling, to be excluded from certain regulations relating to single-family dwellings generally in this ordinance, but subject to the requirements for single-family dwellings generally with respect to permitted principal and accessory uses and structures, prohibited uses and structures, height and signs.

Regulations as contained in this section shall be applied to townhouses permitted outright in any district, or in connection with special exceptions which include townhouses. No zoning permit shall be issued for townhouses, and the planning commission shall not issue a special exception involving townhouses until said commission has reviewed the following:

9.803 Suitability of location in relation to major streets, other access streets, traffic conditions, adjacent land utilization, parks or other open spaces, water and sewer facilities, and the like. (Ord. No. G-70-26)

9.804 Acceptability of proposed building arrangements and site development plan in relation to adjacent properties and to the public street system. (Ord. No. G-70-26)

9.805 Repealed by Ordinance No. G-80-8, § 1, adopted June 12, 1980.

9.806 Site plan and design criteria, general. It is the intent of this ordinance that townhouses in areas where they are or may be permitted:

(a) May be appropriately intermingled with other types of housing;

(b) Shall not form long, unbroken lines of row housing; and

- (c) Shall constitute groupings making efficient, economical, comfortable, and convenient use of land and open space and serving the public purposes of zoning by means alternative to conventional arrangements of yards and buildable areas. (Ord. No. G-70-26)

9.807 Site plan and design criteria, details. In line with the general considerations above:

- (a) Not more than six (6) contiguous townhouses shall be built in a row with the same or approximately the same front line, and not more than ten (10) townhouses shall be contiguous.
- (b) Minimum width for the portion of the lot on which the townhouse is to be constructed shall be fourteen (14) feet.
- (c) Minimum lot area per family shall be three thousand five hundred (3,500) square feet. If the open space or clustering principal is used, then the minimum lot area for a dwelling unit shall be one thousand four hundred (1,400) square feet. The remaining two thousand one hundred (2,100) square feet per family shall be organized in such a way as to be suitable for berm screening, landscaping, open space and for recreational use and to meet minimal parking standards as required in section 9.807(g) and Section 17. Such remainders shall be dedicated to homeowners' associations which meet requirements of section 6.26 and may be used to satisfy up to thirty-seven and five-tenths (37.5) per cent of the total public parkland requirements as specified in section 6.25.
- (d) Separation requirements. No portion of a townhouse or accessory structure in or related to one group of contiguous townhouses shall be closer than twenty (20) feet to any portion of a townhouse or accessory structure related to another group, or any building outside the townhouse area.

- (e) Yards. The sum of the front and rear yards shall be no less than forty-five (45) feet with the minimum front yard being no less than fifteen (15) feet. Side yards. End townhouses whose front and exterior side walls face a parking lot and/or a street, will be considered as having two (2) front yards. End townhouses whose exterior side walls face the front of another townhouse shall also be considered as having two (2) front yards; otherwise, none.
- (f) Grouped parking facilities. Off-street parking facilities shall be grouped in bays, either adjacent to streets or in the interior of blocks. No off-street parking space shall be more than two hundred (200) feet by the most direct pedestrian route, from a door of the dwelling unit it is intended to serve. Practicable methods of snow removal shall be assured by developers in connection with common parking facilities, and all such facilities shall be improved to city standards for off-street parking areas.
- (g) Every dwelling unit shall have provided for it a minimum of two (2) off-street parking spaces.
- (h) Repealed by Ordinance No. G-81-11, § 1, adopted August 13, 1981.
- (i) Curbs of parking courts shall be no closer than five (5) feet to the edge of the public right-of-way.
- (j) All parking not on a public street shall be maintained by a homes association, the developer or lessor, or other arrangement acceptable to the city.
- (k) Repealed by Ordinance No. G-80-40, § 1, adopted December 4, 1980.
- (l) All areas retained by the homes association and maintained by them shall be shown on the record plat. (Ord. No. G-70-26; Ord. No. G-70-31, § 1; Ord. No. G-75-19, § 1; Ord. No. G-77-5, § 1,

8-11-77; Ord. No. G-80-8, § 1, 6-12-80; Ord. No. G-80-38, § 1, 10-2-80; Ord. No. G-80-40, § 1, 12-4-80; Ord. No. G-81-11, § 1, 8-13-81)

- 9.810 Garden apartments subject to the limitations and requirements of 9.92 and 9.805 and further provided that at least two (2) off-street parking spaces are provided per unit. Site plans shall be reviewed by the planning commission or its authorized representative to determine acceptability of proposed building arrangement and site development plan in relation to adjacent properties and the public street system. (Ord. No. G-70-26)
- 9.85 **Conditional uses requiring appeals board authorization.** Any conditional use or structure permitted and as regulated in the R-3 District, except as modified in this section. (Ord. No. G-70-26)
- 9.86 Clubs, fraternities, lodges and meeting places of other nonprofit organizations, but not including any use that is customarily conducted as a gainful business. (Ord. No. G-70-26)
- 9.87 A compound of private garages or parking spaces for passenger cars, for rental by the month or longer; provided that any such compound be located within the interior of the block, not less than fifty (50) feet from every street line and twenty-five (25) feet from any dwelling on adjacent property, and be provided with adequate and suitable accessways, and that the buildings shall comply with all other requirements of section 6.071, applying to accessory buildings. (Ord. No. G-70-26)
- 9.88 Public utility and public service structures and properties other than essential services defined in subsection 4.16, and which must necessarily, from a functional standpoint, be located in a particular place, such

as a telephone exchange or wire center, an electric substation, a water treatment plant, tank, standpipe, or pumping station, a sewage pumping station, a railroad line, or a cross-country pipe line, electric transmission line or telephone cable; but not including any power plants, or any buildings or yards for production, construction, maintenance or storage purposes or any railroad yards, depots or terminal facilities. (Ord. No. G-70-26.)

- 9.89 Medical and dental offices within multi-family and townhouse development are a conditional use in the R-T District if they meet the following requirements:
- (1) There shall be no more than one medical and one dental office for every 150 residential units.
 - (2) The offices shall be permitted only on the lowest story of a multi-family structure or an end unit of a townhouse structure.
 - (3) Medical and dental offices shall be permitted only in units with one common wall shared with a residential unit; ceilings are not considered walls.
 - (4) Number of parking spaces shall conform with section 17.34 (5). These parking spaces shall be reserved for patients during the day or office hours. A sign to this effect shall be posted in front of each parking space.
 - (5) *Signs*: One identification sign shall be permitted, not to exceed two square feet. This sign shall be attached to the building and not extend above any sidewalk or public right-of-way. One directional sign shall be permitted within the building. The sign shall not exceed one square foot. This sign shall be attached flatly against the wall. Name plates of doctors shall be permitted so long as they are attached flatly against the door or within the immediate vicinity of the door, and shall not exceed one (1) square foot in area.
 - (6) *Conditions*: The board of appeals in passing upon conditional use applications, may attach

conditions considered necessary to protect the public welfare and the comprehensive plan, including conditions which are more restrictive than those established for other uses in the same zone. (Ord. No. G-75-45, § 1.)

- 9.90 **Accessory uses.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-3 District and also the following: (Ord. No. G-70-26.)
- 9.901 Private garages or parking lots of sufficient capacity to serve the principal uses or authorized conditional use. (Ord. No. G-70-26.)
- 9.902 The home office of a doctor, engineer, architect, certified public accountant or attorney, within his home and purely incidental thereto; provided, that there shall be no employee or advertising sign. (Ord. No. G-70-26.)
- 9.91 **Height regulations.** No principal structure shall exceed three (3) stories or forty (40) feet in height and no accessory structure shall exceed one and one-half (1½) stories or twenty (20) feet in height, except as provided in section 19.20 and except that farm structures may be built to any required height; and provided further, that the board of appeals, by an exception, may authorize a building not exceeding six (6) stories or seventy-five (75) feet in height, on condition that the least side yard width required for a three-story multi-family dwelling shall be increased three (3) feet, and the sum of both side yards shall be increased six (6) feet, for each story in excess of three (provided that these requirements shall not apply so as to require any side yard width exceeding ½ the building height), and that the board may impose such other conditions as it deems necessary to protect adjacent property and the public interest. (Ord. No. G-70-26.)
- 9.92 **Lot area, lot width and yard requirements.** The follow-

ing minimum requirements shall be observed subject to the modified requirements in section 19:

	Min. Lot Area Sq. Ft.	Min. Lot Width Feet	Lot Area Per Family Sq. Ft.	Front Yard Feet	Side Yards		
					Least Side Feet	Sum of Both Sides Feet	Rear Yard Feet
Townhouse	1,400	14	3,500	15	See 9.807(e)		30
Duplex:							
One							
1½ stories	3,500	35	3,500	25	12	NA	25
Two							
2½ stories	3,500	35	3,500	25	14	NA	25
3 stories	3,500	35	3,500	25	18	NA	25
Garden apart- ments	2 acres	50	3,500	25	20	40	40
Churches	20,000	60	—	25	10	20	40
Kindergar- tens, nurs- ery schools, child care center	If located within apartment structure or separate structure, dimensions shall be the same as for a garden apartment. If located within townhouses, shall meet same requirements.						
Public utilities	3,000	30	—	25	5	10	40
Other per- mitted uses	Same as specified in the "R-3" District.						

(Ord. No. G-70-26; Ord. No. G-70-31, § 1; Ord. No. G-76-16, § 1, 7-8-76; Ord. No. G-80-38, § 1, 10-2-80)

SECTION 10. R-4—MULTI-FAMILY RESIDENCE DISTRICT

10.00 The following regulations and the applicable regulations contained in other sections shall apply in the R-4 Multi-Family Residence District.

10.10 Principal permitted uses.

10.101 Any principal use or structure permitted and as regulated in the R-3 District.

- 10.102 Two-family dwellings, apartment houses, and other multi-family dwellings.
- 10.103 Boarding or lodging houses not primarily for transients.
- 10.104 Hospitals, sanitoriums, and convalescent or nursing homes, public or private, except those primarily for the insane, feeble-minded, contagious diseases, or chronic alcoholics or drug addicts; orphanages, homes for the aged, or other religious or charitable institutions; provided, that any such building shall be located at least twenty (20) feet from any other lot in an "R" District.
- 10.104.1 Townhouses subject to all controls and regulations as specified in section 9A "R-T—Townhouses and Multi-Family Residence District". (Ord. No. G-76-6, § 1, 3-18-76)
- 10.105 No building permit shall be issued for any of the above permitted uses until a site plan for the proposed project has been approved by the planning commission.

The planning commission shall review and approve such site plan with regards to the following:

- (a) Location and arrangement of all structures on the property;
- (b) Location and design of all parking areas, and the internal traffic circulation pattern for both pedestrians and vehicles;
- (c) Location and amount of recreation and open space areas;
- (d) Acceptability of proposed building arrangements and site development plan to adjacent properties and the public street system.

- 10.106 Repealed by Ordinance No. G-80-9, § 1, adopted June 12, 1980.

- 10.20 **Conditional uses requiring appeals board authorization.**
- 10.201 Any conditional use or structure permitted and as regulated in the "R-3" District, except as modified in this section.
- 10.202 Clubs, fraternities, lodges, and meeting places of other nonprofit organizations, but not including any use that is customarily conducted as a gainful business.
- 10.203 A compound of private garages or parking spaces for passenger cars, for rental by the month or longer; provided, that any such compound be located within the interior of the block, not less than fifty (50) feet from every street line and twenty-five (25) feet from any dwelling on adjacent property, and be provided with adequate and suitable accessways, and that the buildings shall comply with all other requirements of section 6.071, applying to accessory buildings.
- 10.204 A commercial parking lot or an accessory parking lot, for fifteen (15) or more passenger vehicles, where it adjoins a "B-1", "B-2", "B-3", or any "M" District either directly or across an alley, and subject to the conditions and limitations in section 17.30.
- 10.205 Public utility and public service structures and properties other than essential services defined in subsection 4.16, and which must necessarily, from a functional standpoint, be located in a particular place, such as a telephone exchange or wire center, an electric substation, a water treatment plant, tank, standpipe, or pumping station, a sewage pumping station, a railroad line, or a cross-country pipe line, electric transmission line, or telephone cable; but not including any power plants, or any buildings or yards for production, construction, maintenance, or storage purposes, or any railroad yards, depots, or terminal facilities.

10.206 A group home for the care of disturbed or disadvantaged minors or mentally retarded persons may be authorized by the board of appeals subject to the following conditions:

- (a) Said homes are to be owned or leased by an established and financially responsible organization or public agency.

- (b) Said homes to be occupied at all times by adults trained and authorized to maintain and operate the premises.
- (c) Said homes are to have a minimum of three (3) off-street parking spaces.
- (d) The Board may require what evidence it determines necessary to insure that the organization is financially responsible and thoroughly experienced in the field of care in which it is to operate.
- (e) The Board shall establish the maximum number of minors to be housed in the facility. (Ord. No. G-70-38, § 1.)

10.207 Medical and dental offices within multi-family and townhouse development are a conditional use in the R-4 District, if they meet the following requirements:

- (1) There shall be no more than one medical and one dental office for every 150 residential units.
- (2) The offices shall be permitted only on the lowest story of a multi-family structure or an end unit of a townhouse structure.
- (3) Medical and dental offices shall be permitted only in units with one common wall shared with a residential unit; ceilings are not considered walls.
- (4) Number of parking spaces shall conform with section 17.34 (5). These parking spaces shall be reserved for patients during the day or office hours. A sign to this effect shall be posted in front of each parking space.
- (5) *Signs*: One identification sign shall be permitted, not to exceed two square feet. This sign shall be attached to the building and not extend above any sidewalk or public right-of-way. One directional sign shall be permitted within the building. The sign shall not exceed one square foot. This sign shall be attached flatly against the wall. Name plates of doctors shall be permitted

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so long as they are attached flatly against the door or within the immediate vicinity of the door, and shall not exceed one (1) square foot in area.

- (6) *Conditions:* The board of appeals in passing upon conditional use applications, may attach conditions considered necessary to protect the public welfare and the comprehensive plan, including conditions which are more restrictive than those established for other uses in the same zone. (Ord. No. G-75-46, § 1.)

- 10.30 **Accessory uses.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-3 District and also the following:
- 10.301 Private garages or parking lots of sufficient capacity to serve the principal uses or authorized conditional use.
- 10.302 The home office of a doctor, engineer, architect, certified public accountant, or attorney, within his home and purely incidental thereto; provided, that there shall be no employee or advertising sign. One off-street parking space shall be provided for each office, in addition to all other parking requirements applying to the premises.
- 10.40 **Height regulations.** No principal structure shall exceed three (3) stories or forty (40) feet in height, and no accessory structure shall exceed one and one-half ($1\frac{1}{2}$) stories or twenty (20) feet in height, except as provided in section 19.20; and except, that farm structures may be built to any required height; and provided further, that the board of appeals, by an exception, may authorize a building not exceeding six

(6) stories or seventy-five (75) feet in height, on condition that the least side yard width required for a three-story multi-family dwelling shall be increased three (3) feet, and the sum of both side yards shall be increased six (6) feet, for each story in excess of three (provided that these requirements shall not apply so as to require any side yard width exceeding $\frac{1}{2}$ the building height), and that the board may impose such other conditions as it deems necessary to protect adjacent property and the public interest.

10.50 **Lot area, lot width, and yard requirements.** The following minimum requirements shall be observed subject to the modified requirements in section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	SIDE YARDS ⁽²⁾		
					Least Side (width)	Sum of Both Sides	Rear Yard (depth)
	<i>sq. ft.</i>	<i>feet</i>	<i>sq. ft.</i>	<i>feet</i>	<i>feet</i>	<i>feet</i>	<i>feet</i>
One-Family Dwellings							
1 and 1½ Stories	5,000	50	5,000	25	4 ⁽³⁾	10 ⁽³⁾	25
2 and 2½ Stories..	5,000	50	5,000	25	5 ⁽³⁾	12 ⁽³⁾	25
3 Stories.....	5,000	50	5,000	25	7	18	25
Two-Family Dwellings⁽⁶⁾							
1 and 1½ Stories..	5,500	50	2,750	25	5 ⁽³⁾	12 ⁽³⁾	25
2 and 2½ Stories..	5,500	50	2,750	25	6 ⁽³⁾	14 ⁽³⁾	25
3 Stories.....	5,500	50	2,750	25	8	18	25
Multi-Family Dwellings							
1 and 1½ Stories..	6,000	50	2,000	25	6	14	25
2 and 2½ Stories..	6,000	50	2,000	25	7	16	25
3 Stories ⁽⁵⁾	6,000	50	2,000	25	9	20	25
Garden Housing Project.....	2 acres ⁽⁴⁾	50	1,750 ⁽⁴⁾	25	20	40	40
Churches.....	20,000	60	....	25	10	20	40
Kindergartens, Nursery Schools, Child Care Centers.....	5,000	50	5,000	25	Same as for Multi- Family Dwellings		
Public Utilities	3,000	30	....	25	5	10	40
Other Permitted Uses.....	Same as specified in the "R-3" District						

⁽¹⁾ For built-up frontage, see section 19.41.

⁽²⁾ For interior lots where length of side yard does not exceed 40 ft. For greater lengths see section 19.62.

⁽³⁾ For lot less than 40 ft. wide see section 10.511.

⁽⁴⁾ Subject to requirements of section 18.30.

⁽⁵⁾ For multi-family dwellings of greater heights see section 10.40.

⁽⁶⁾ For duplex dwellings, see section 10.514.

10.51 Side yard variations.

10.511 *Lots less than 40 feet wide.* For each foot by which a lot existing and of record at the time of enactment of this ordinance is narrower than forty (40) feet, in the case of buildings not higher than 2½ stories, and

where the owner of record does not own any adjacent land, one and one-half (1½) inches may be deducted from the required least width of one side yard, and three (3) inches from the required sum of the widths of both side yards, on condition that the building depth along any such side yard so reduced in width shall not exceed fifty (50) feet less ten (10) inches for each one (1) inch of reduction from the side yard width required on a lot; and provided that no side yard shall be narrower at any point than three (3) feet in any case.

10.512 *Omission of one side yard.* A side yard may be omitted on a lot existing and of record at the time of enactment of this ordinance, where an existing building on an adjacent lot is built up to the side lot line and has no wall opening on that side, subject to the following conditions:

- A. The building or portion thereof to be erected within the omitted side yard space shall not exceed in depth two (2) rooms used for habitation, unless such portion directly adjoins upon the adjacent building and the rooms therein, if in excess of two (2) rooms deep, are lighted by windows opening on the side yard on the opposite side or on a required court; and
- B. The side yard on the opposite side of the proposed building shall be at least seventy-five (75) per cent as wide as the required sum of side yards for a building of the same height, depth, and occupancy on the same lot.

10.513 *Omission of both side yards.* Both side yards may be omitted where the situation described in subsection 10.512 above exists on both sides of a proposed building, provided that:

- A. The proposed building shall not in any case exceed in depth two (2) rooms used for habitation;
- B. A pedestrian passageway at least three (3) feet in width, from front to rear, shall be provided at street level; and
- C. Vehicular access to the required off-street parking space shall be available by alleys or other suitable means.

- 10.514 **Duplex dwellings.** In the case of a duplex dwelling (two dwelling units side-to-side), each unit shall have one side yard equal in width to the required sum of side yard widths for a two-family dwelling of the same height, and the minimum lot width shall be 60 feet. (Ord. No. G-73-22, § 1; Ord. No. G-73-28, § 1.)

Section 11.

B-0 — LIMITED BUSINESS DISTRICT.

- 11.00 The following regulations and the applicable regulations contained in other sections shall apply in the B-0 Limited Business District:
- 11.10 **Principal permitted uses.**
- 11.101 Any principal use or structure permitted and as regulated in the R-4 District, except as hereinafter modified.
- 11.102 Any of the following uses, subject to the conditions specified in section 11.20:
- 11.1021 Medical or dental clinics or dispensaries.
- 11.1022 Business and professional offices.
- 11.1023 Artist's studios and galleries.
- 11.1024 Shops for the sale of gifts, antiques, art goods, flowers, stationery, clothing, jewelry, candy, and similar specialties for personal use.
- 11.1025 Pharmacies primarily for prescriptions and pharmaceutical items.
- 11.1026 Banks. (Ord. No. G-70-42, § 1.)
- 11.20 **Required conditions:** No building or use permitted under section 11.102 shall have a store front or plate glass show window, nor any goods on outside display, nor any advertising on the building or windows; except, that an identification sign displaying the name and nature of the establishment shall be permitted if such sign does not exceed two square feet in area for each 50 feet or less of building frontage.
- 11.30 **Conditional uses requiring appeals board authorization.**
- 11.301 Any conditional use or structure permitted and as regulated in the R-4 District, except as modified in this section.

- 11.302 Any of the principal uses specified under section 11.102 above, without the attached conditions in section 11.20, upon approval by the board of the design of building front, signs, and the like, as being consistent with the character of surrounding buildings or being desirable for the purpose of creating an attractive and harmonious street scene, calculated to assist in the improvement of property values generally and the constructive use of property, for the public welfare.
- 11.303 Undertaking establishments; provided, that all vehicles serving any such establishment shall be housed when not in actual use, that off-street parking and loading spaces are provided for all vehicles participating in any funeral and for all other patrons — but not in any front yard or street side yard, — and that no sign shall be displayed other than a name sign not exceeding two square feet in area and not containing the words “funeral home”, “undertaker”, or anything similar.
- 11.304 Hotels, inns, cafes, soda fountains, tea rooms, and taverns, not including dancing or entertainment.
- 11.305 Other uses deemed by the board to be of similar character to those permitted, and not of a general commercial or industrial nature.
- 11.306 An exterior sign pertaining to the uses conducted on the premises and the owner thereof, and not exceeding in the aggregate two square feet in area for each lineal foot of the building frontage nor more than 100 square feet, whichever is smaller, may be permitted by the board for any of the uses provided for in section 11.304 or 11.305, where said B-0 District abuts upon any “B” or “M” District; provided, that no such sign shall exceed 25 feet in height if free-standing, and if attached to a building, no such sign shall project more than three (3) feet above the parapet wall or roof line but if attached, shall not exceed 25 feet in height above ground level; and further provided, that said sign shall be located within five (5) feet of the adjoining “B” or “M” Districts and shall not be closer than 125 feet to any “R” District on which the sign faces. A double-face sign shall be counted and measured

as one sign. No single sign shall exceed fifteen (15) feet in its greatest vertical or horizontal dimension. This section shall be inapplicable in a "Historic Frederick" District as defined in section 5-17 of Chapter 5, Article III of the Code of the City of Frederick. (Ord. No. G-70-6, § 1)

- 11.40 **Accessory uses.** Accessory buildings and uses customarily incidental to any principal use or authorized conditional use, including those permitted in the R-4 District and others.
- 11.50 **Height regulations.** The same as in the R-4 District.
- 11.60 **Lot area, width, and yard requirements.** The following minimum requirements shall be observed, subject to the modified requirements in section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	Side Yards (Lots 40' or more)		Rear Yard (depth)
					Least Side (width)	Sum of Both Sides	
	sq. ft.	feet	sq. ft.	feet	feet	feet	feet
One-family dwellings	3,500	30	3,500	25	Same as "R-4"		40 ft. adjoining an "R" District; otherwise 20 ft.
Two-family dwellings	3,500	30	1,750	25	Same as "R-4"		"
Multi-family dwellings	3,500	30	1 or more bedroom apts. = 1,000; efficiency apts. = 750.	25	Same as "R-4"		"
Stores, shops, offices, clinics, studios, hotels, undertakers, other business places . . . .	....	....	....	25	15 ft. adjoining an "R" District, otherwise none.		"
Other permitted uses	Same as in "R-4" District.						

⁽¹⁾ For built-up frontage, see section 19.41.

11.70 Prohibited uses.

11.701 Adult bookstores and adult motion picture theatres.
(Ord. No. G-77-17, § 2, 12-1-77)

SECTION 12. B-1 SHOPPING CENTER DISTRICT

12.00 The following regulations and other applicable regulations contained in other sections shall apply in the B-1 Shopping Center District:

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12.10 Principal permitted uses.

12.101 Any principal use or structure permitted and as regulated in the R-4 District, except as hereinafter modified.

12.102 A unified shopping center consisting of a group of retail stores and personal service establishments, with their customary accessory uses and structures, intended primarily for the convenience of persons residing in the adjacent residential neighborhoods, and complying with the conditions specified in section 12.30.

12.20 **Accessory uses.** Accessory buildings and uses customarily incidental to any principal use, including those permitted in the R-4 District and others.

12.30 **Required conditions.** A unified shopping center shall be permitted only after submission to and approval by the planning commission of the site plans and general building plans therefor, together with such specifications as may be required for the purpose of administering these regulations. Enlargement or reconstruction of an existing center shall be subject to the same approval. No such center shall be approved unless it is found by the planning commission to meet with the following requirements:

12.301 Each unified shopping center shall consist of one or more buildings of integrated and harmonious design, with common parking and service areas or facilities, all in a single ownership or under unified control so as to be operated as a single unit.

12.302 The uses to be permitted in any unified shopping center shall be limited to the following:

12.302a Any principal use permitted in the B-0 District, except a dwelling, and without the conditions specified in section 11.20.

12.302b Retail stores, shops, and service establishments supplying commodities or performing services primarily

to meet the ordinary day-to-day needs of the residents of nearby areas, such as food stores, bakeries, drug stores, barber and beauty shops, hardware and accessory stores, variety stores, antique shops, gift shops, record shops, theatres, branch banks, savings and loan offices, doctors' offices, real estate offices, and the like. (Ord. No. G-83-37, § 1, 10-6-83)

12.302c Restaurants, cafes, or soda fountains, not including dancing or entertainment.

12.302d Automobile service stations.

12.302e Any other retail business or service establishment that may be determined by the commission to

be of the same general character as the above-permitted uses and consistent with the over-all objectives and purposes of the unified shopping center, but not including any use first permitted in the B-2 District and which, in the judgment of the commission, would likely be objectionable in such center, nor any use not permitted in the B-2 District.

12.302f The manufacturing, processing, or treatment of goods for sale primarily at retail on the premises, or the cleaning, laundering, repairing, or other treatment of objects as a retail service to customers on the premises, in which manufacturing, processing, cleaning, laundering, repairing, and treatment not more than 5 persons shall be engaged at any one time.

- 12.303 All businesses, services, or processing shall be conducted within buildings except for the sale of automotive fuels, oils, and other fluids at service stations, or unless specifically authorized by the planning commission in connection with site plan approval.
- 12.304 Goods shall consist primarily of new merchandise or of bona fide antiques.
- 12.305 Processes and equipment employed and goods processed or sold shall be limited to those which are not objectionable or hazardous by reason of odor, dust, smoke, steam, cinders, gas, fumes, noise, vibration, fire, explosion, radiation, refuse matter, or water-carried waste.
- 12.306 No building within the center shall be used for dwelling purposes.
- 12.307 The aggregate site area of all buildings shall not exceed twenty-five (25) per cent of the lot area.
- 12.308 Paved parking areas shall be provided on the site, with a gross area at least twice as great as the gross site area of the buildings, but in no case less than 75 per cent of the aggregate of individual requirements specified in sections 17.20 and 17.21.
- 12.309 Paved truck-loading and delivery spaces shall be provided on the site separate from the parking areas, and adequate to meet the needs of the several component establishments.

- 12.310 Where located directly opposite the frontage of any lots in an "R" District, the parking and loading areas shall be distant at least 25 feet from the established street right-of-way line, and the buildings at least 100 feet from such line; otherwise, such areas shall be at least 10 feet from every property line and the buildings at least 50 feet therefrom; and the intervening spaces shall be landscaped and well maintained.
- 12.311 Floodlights or spotlights shall not be mounted more than 20 feet above ground and shall be shaded to protect adjacent residential areas and the passing public from all avoidable glare. No lights shall be permitted that simulate or conflict with any traffic, police, safety, or emergency lights.
- 12.312 The site plan shall make adequate provision for the effective separation and protection of pedestrians from traffic, by sidewalks, islands, and otherwise; for well-defined entrances and exits with proper consideration for traffic controls and movements; and for effective drainage, lighting, directory signs, landscaping, and all other pertinent features of a thoroughly well-designed, safe, and attractive shopping center.
- 12.313 Exterior signs shall pertain only to the uses conducted on the premises, and shall not exceed in the aggregate two (2) square feet of area for each linear foot of building frontage. Such signs shall be integral with or attached to the principal building and shall not project more than two (2) feet from the front thereof unless attached to a marquee or sidewalk canopy, nor more than three (3) feet above the parapet wall or roof line; provided, however, that for an automobile service station such a sign, displaying only the identifying name or symbol of such station, may be supported on a free-standing structure located in front of such station but not projecting over the street line and not located within less than fifty (50) feet of the side of any adjacent lot in any "R" or "B-0" District. No such free-standing sign shall exceed fifteen (15) feet in total height and its sign areas together with all other signs on the lot shall not exceed in the aggregate the maximum permitted hereinabove.

- 12.314 In addition to the signs permitted by section 12.313, each unified shopping center shall be permitted one (1) free-standing sign for each of not more than two major streets upon which such center fronts, displaying only the name of the shopping center as a whole and a subordinate bulletin board. Every such sign shall be located at least twenty-five (25) feet back from the right-of-way lines of all streets and at least fifty (50) feet from the side lot line of any adjacent lot in any "R" or "B-0" District. No such sign shall exceed twenty-five (25) feet in total height and the total area of all such signs on any shopping center shall not exceed one hundred (100) square feet. A double-faced sign shall be counted and measured as one sign.
- 12.315 Directional and other incidental signs, not exceeding four (4) square feet in area for any one sign, nor an aggregate of sixteen (16) square feet for any one establishment, shall be permitted in connection with the operation of an automobile service station or similar facility; provided, such signs do not extend over any street right-of-way lines nor otherwise obstruct or impair the safety of pedestrians or motorists.
- 12.316 All signs within a center shall be controlled by written agreement between the owners and tenants thereof, or otherwise, to avoid excessive advertising and insure a harmonious appearance to the center as a whole.
- 12.40 Procedure. In considering an application and plans for a unified shopping center, the planning commission shall investigate and ascertain whether the location, size, and other characteristics of the site, and the proposed plan, comply with the following conditions:
- 12.401 The proposed shopping center is adequate, but not excessive, in size to provide adequate neighborhood or community shopping facilities, as the case may be, for the population which reasonably may be expected to be served by such shopping facilities.
- 12.402 The proposed shopping center is at a location where traffic congestion does not exist at present on the streets or roads to be utilized for access to the proposed shopping center, and where such congestion will

not likely be created by the proposed center; or where such congestion will be obviated by presently projected improvements of access roads, by demonstrable provision in the plan for proper entrances and exits, and by internal provisions for traffic and parking.

- 12.403 The plan provides for a shopping center consisting of one or more groups of establishments in buildings of integrated and harmonious design, together with adequate and properly arranged traffic and parking facilities and landscaping, which will be an attractive and efficient shopping center, convenient, pleasant and safe to use, and which will fit harmoniously into, and will have no adverse effects upon, the adjoining or surrounding development.
- 12.41 If such project is found by the commission to comply with these requirements and conditions, and to be acceptable in all other respects as well, it shall approve the plans and specifications and authorize the issuance of building permits in accordance therewith; otherwise the commission shall disapprove such plans or specifications and no building permit shall be issued.
- 12.50 **Height regulations.** No structure shall exceed two (2) stories or thirty (30) feet, except as provided in section 19.20 and except that farm structures may be built to any required height.
- 12.60 **Lot area, lot width, and yard requirements.** The following minimum requirements shall be observed, subject to the modified requirements contained in section 19:

	Min. Lot Area	Min. Lot Width	Lot Area per Family	Front Yard ⁽¹⁾ (depth)	Side Yards (width—each side)	Rear Yard (depth)
Dwellings or residential parts of other buildings			Same as in "R-4" District.			
Other principal permitted uses	—	—	—	25 (⁽²⁾)	None required except adjoining any "R" or "B-O" District, in which case not less than 15 feet.	40 ft. adjoining an "R" or "B-O" District; otherwise none.
Unified shopping center.....	—	—	—	(⁽³⁾)	(⁽³⁾)	(⁽³⁾)

(⁽¹⁾) For built-up frontages, see section 19.41.

(⁽²⁾) Or greater as may be specified elsewhere in this ordinance.

(⁽³⁾) See section 12.40.

12.70 Regional shopping centers. Subject to the conditions and limitations hereinafter specified, the planning commission may approve the site plans, general building plans and specifications for a shopping center of such size and character that it would serve generally as a trade center for a region larger than the adjacent residential neighborhoods. No such approval may be given, however, without a public hearing, at which parties in interest and citizens shall have an opportunity to be heard. At least ten (10) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in the city, and the property shall be so posted.

12.701 The uses permitted and the conditions applying in a regional shopping center shall be the same as specified elsewhere in the B-1 Shopping Center District, with the following additions and modifications:

- 12.701.1 No site less than forty (40) acres in area shall be eligible for consideration as a regional shopping center.
- 12.701.2 **Additional uses.** Department stores, specialty shops, theatres, radio broadcasting studios, banks, small loan offices, furniture, radio and appliance stores, automobile supply and service stores, and any other retail business or service establishment as may be determined by the commission to be of the same general character as the above permitted uses and consistent with the over-all objectives, purposes and standards of a desirable regional shopping center, but not including any use not permitted in the B-2 District nor any use which the commission may judge likely to become objectionable in such center.
- 12.701.3 **Modified conditions.** The planning commission may modify any of the following conditions or regulations in the case of a regional shopping center, in order to obtain a well-proportioned composition of buildings, structures and open spaces in reasonable scale with the size and setting of the entire project, the heights of buildings, signs, and lights, and the size of signs. Such modifications shall be made in consideration of extra setbacks, distances from adjacent property and similar compensatory factors.
- 12.701.4 **Enclosed malls.** Covered or enclosed public walks or malls shall not be counted as building area for the purpose of section 12.307.
- 12.702 All other regulations and procedures applying to a unified shopping center shall apply to a regional shopping center. (Ord. No. G-285, § 1)
- 12.80 Prohibited uses.
- 12.801 Adult bookstores and adult motion picture theatres. (Ord. No. G-77-17, § 3, 12-1-77)

dio, newspaper plant, bank, small loan office, furniture, radio or appliance store, or automobile supply or service store,—except any use first permitted in the B-3 District or any use not permitted in the B-3 District.

13.103 Commercial or municipal parking lots and structures.

13.104 Radio and similar communications towers, broadcasting stations, and equipment.

13.20 Accessory uses. Accessory buildings and uses customarily incidental to any principal use, including those permitted in the B-0 and B-1 Districts and also the following:

13.201 Exterior signs pertaining only to the uses conducted on the premises, and not exceeding in the aggregate three (3) square feet in area for each linear foot of building frontage. Such signs shall be integral with or attached to the principal building and shall not project more than thirty (30) inches into a street right-of-way, unless attached to a marquee or sidewalk canopy.

13.202 Free standing sign pertaining only to the name or uses conducted on the premises and not exceeding 25 square feet in area. The area of the said sign shall be counted in arriving at the total square footage permitted for the premises under section 13.201 above. Said sign shall not project into the street right of way. Height of said sign, including support, shall not exceed 15 feet. (Ord. No. G-70-22, § 1.)

13.30 Required conditions.

13.301 All businesses, services, or processing shall be conducted within buildings except for the parking, loading, unloading or servicing of vehicles, or unless permitted by the board of appeals as an exception.

13.302 Goods shall consist primarily of new merchandise or of bona fide antiques.

13.303 Processes and equipment employed and goods processed, stored, or sold shall be limited to those which are not objectionable or hazardous by reason of odor, dust, smoke, steam, cinders, gas, fumes, noise, vibration, fire, explosion, radiation, refuse matter, or water-carried waste.

- 13.40 **Height regulations.** No structure shall exceed eight (8) stories or ninety (90) feet, except as provided in section 19.20; and except, that farm structures may be built to any required height.
- 13.50 **Lot area, lot width, and yard requirements.** The following minimum requirements shall be observed, subject to the modified requirements in section 19:

SECTION 13. B-2—CENTRAL BUSINESS DISTRICT

- 13.00 The following regulations and other applicable regulations contained in other sections shall apply in the B-2 Central Business District:
- 13.10 **Principal permitted uses.** Subject to the conditions in section 13.30:
- 13.101 Any principal or conditional use or structure permitted in the B-0 and B-1 Districts (without the same conditions), except an automobile service station, and except as otherwise modified by this section.
- 13.102 Any retail store, shop or service establishment such as a department store, specialty shop, theatre, hotel, motel, undertaker, bus depot, radio broadcasting studio, newspaper plant, bank, small loan office, furniture, radio or appliance store, or automobile supply or service store,—except any use first permitted in the B-3 District or any use not permitted in the B-3 District.
- 13.103 Commercial or municipal parking lots and structures.
- 13.104 Radio and similar communications towers, broadcasting stations, and equipment.
- 13.20 **Accessory uses.** Accessory buildings and uses customarily incidental to any principal use, including those permitted in the B-0 and B-1 Districts and also the following:
- 13.201 Exterior signs pertaining only to the uses conducted on the premises, and not exceeding in the aggregate three (3) square feet in area for each linear foot of building frontage. Such signs shall be integral with or attached to the principal building and shall not project more than thirty (30) inches into a street right-of-way, unless attached to a marquee or sidewalk canopy.

- 13.202 Free standing sign pertaining only to the name or uses conducted on the premises and not exceeding twenty-five (25) square feet in area. The area of the said sign shall be counted in arriving at the total square footage permitted for the premises under section 13.201 above. Said sign shall not project into the street right of way. Height of said sign, including support, shall not exceed fifteen (15) feet. (Ord. No. G-70-22, § 1)
- 13.30 **Required conditions.**
- 13.301 All businesses, services, or processing shall be conducted within buildings except for the parking, loading, unloading or servicing of vehicles, or unless permitted by the board of appeals as an exception.
- 13.302 Goods shall consist primarily of new merchandise or of bona fide antiques.
- 13.303 Processes and equipment employed and goods processed, stored, or sold shall be limited to those which are not objectionable or hazardous by reason of odor, dust, smoke, steam, cinders, gas, fumes, noise, vibration, fire, explosion, radiation, refuse matter, or water-carried waste.
- 13.40 **Height regulations.** No structure shall exceed eight (8) stories or ninety (90) feet, except as provided in section 19.20; and except, that farm structures may be built to any required height.
- 13.50 **Lot area, lot width, and yard requirements.** The following minimum requirements shall be observed, subject to the modified requirements in section 19:
- 13.60 **Conditional use requiring board authorization.**
- Live entertainment:
- Shall include, but is not limited to, belly-dancing, poem recital, folk music, country and western

music, popular music, ballet, tap dancing and other type of choreographed performances, opera, symphonies, magic shows, comedy acts. Other types of entertainment which may be determined by the board of zoning appeals to be of the same general character as the foregoing.

Required conditions:

1. The live entertainment shall be secondary to the permitted use.
2. Sounds emanating from the area containing the entertainment shall not exceed sixty (60) dBs five (5) feet beyond the rear or side property lines, nor ten (10) feet beyond the front property line.
3. Entertainment which includes sexual conduct, nudity, or obscenity which is prohibited to be viewed by minors or adults by reason of state or federal law shall be prohibited. (Ord. No. G-77-15, § 1, 11-17-77)

	<i>Min. Lot Area</i>	<i>Min. Lot Width</i>	<i>Front Yard (depth)</i>	<i>Side Yards</i>		<i>Rear Yard (depth)</i>
				<i>Least Width</i>	<i>Sum of Least Widths</i>	
Dwellings or residential parts of other buildings			Same as in "B-O" District.			
Nonresidential buildings	None	None	None	None, except when adjoining "R" or "B-O" District, then not less than 3 ft.	20 ft. ad- joining an "R" or "B-O" District; otherwise none.	

13.70 Prohibited uses.

13.701 Adult bookstores and adult motion picture theatres. (Ord. No. G-77-17, § 4, 12-1-77)

SECTION 14. B-3—GENERAL BUSINESS DISTRICT

- 14.00 The following regulations and the applicable regulations contained in other sections shall apply in the B-3 General Business District:
- 14.10 **Principal permitted uses.** Subject to the conditions in sec. 14.40:
- 14.101 Any use or structure permitted and as regulated in the B-2 District, except as hereinafter modified.
- 14.102 Automobile, tire, battery, bicycle, or mobile home sales, service, hire, or repairing; provided, that all repairing operations shall be conducted within enclosed buildings.
- 14.102A Electrical shops, roofing shops and plumbing shops; provided that all repairing operations, manufacturing, fabrication, and storage shall be conducted within enclosed buildings and further provided that the primary use of the property is not for manufacturing or fabrication of products. (Ord. No. G-79-17, § 1, 10-11-79)
- 14.103 Garages and automobile repair shops; provided, that all repairing operations shall be conducted within enclosed buildings.
- 14.104 Tourist homes (other than accessory uses permitted in the R-3 District).
- 14.105 Bowling alleys, skating rinks, pool halls, and other commercial recreation or amusement places if within enclosed buildings.
- 14.106 Repealed by Ordinance No. G-206, § 1.
- 14.107 Printing and publishing establishments, upholstery shops, carpenter shops, and sign painting shops.
- 14.108 Retail lumber and building supply yard, including incidental mill work; provided, such yard is enclosed on all sides by a secure chain-link or

- 14.109 painted picket fence not less than six (6) feet high, without advertising matter thereon.
- 14.110 Sales stands.
- 14.111 Wholesale houses having display and sales rooms,—not including flammable liquids or explosives.
- 14.112 The following uses, subject to compliance with the distance requirements in section 6.18:
- 14.1111 Drive-in eating and drinking places, summer gardens, and road houses, including dancing and entertainment—provided, the principal building shall comply with the specified distance requirements.
- 14.1112 Truck, trailer, tractor, farm implement, road machinery, motorcycle, and similar equipment sales, service, hire, or light repairing.
- 14.1113 Commercial swimming pools, golf driving ranges, and miniature golf.
- 14.112 Any other use that may be determined by the board of appeals to be of the same general character as the foregoing permitted uses, including any kind of manufacturing or treatment incidental to the conduct of a retail business on the premises, except a use that is first permitted or is prohibited in the M-1 District.
- 14.20 **Conditional uses requiring appeals board authorization.**
- 14.201 Riding academies, pony rides, and other commercial places where horses and similar animals are kept—subject to two (2) times the distance requirements in subsection 6.18.
- 14.202 Drive-in theatres, ball parks—subject to two (2) times the distance requirements in subsection 6.18.

- 14.203 Carnivals, amusement parks, and circuses—subject to three (3) times the distance requirements in subsection 6.18.
- 14.204 Veterinary hospitals and clinics, on sites of not less than two (2) acres each, subject to the distance requirements in subsection 6.18; and provided, that all facilities for the keeping and handling of animals, including loading docks, exercise areas, etc., are within the buildings and are fully soundproofed and air conditioned with no open runways, pens, animal lots, refuse piles, or the like.
- 14.205 Automobile service stations. (Ord. No. G-206, § 1)
- 14.206 Underground storage of inflammable liquids, not to exceed forty thousand (40,000) gallons. (Ord. No. G-206, § 1)
- 14.207 Automobile washing establishments. (Ord. No. G-253, § 1)
- 14.208 Adult bookstores and adult motion picture theatres subject to the following conditions:
- 14.2081 The use shall not be located within five hundred (500) feet of any residential zone or church, school or park or playground; or within one thousand (1,000) feet of any other such restricted use.
- 14.2082 Advertisements, displays, or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways, or from other areas public or semipublic.
- 14.2083 All building openings, entrees, windows, etc., shall be located, covered, or screened in such a manner as to prevent a view into the interior from any public or semipublic areas.

- 14.2084 No loudspeakers or sound equipment shall be used for adult motion picture theatres that can be discerned by the public from public or semipublic areas.
- 14.2085 The board of appeals shall impose such other conditions and limitations as may be deemed necessary to carry out the purpose and intent of the Frederick City Zoning Ordinance. (Ord. No. G-77-17, § 5, 12-1-77)
- 14.209 Outdoor storage of materials which are awaiting delivery or further processing, installation or other use in the business and which storage is not generally open to the public, provided the storage area is screened to prevent the viewing of said storage from ground level by a solid barrier not less than five (5) feet high. (Ord. No. G-79-17, § 1, 10-11-79)
- 14.210 Repealed by Ordinance No. G-83-25, § 1, adopted April 7, 1983.
- 14.30 Accessory uses. Accessory buildings and uses customarily incidental to any principal use, including those permitted in the B-2 District and also the following:
- 14.301 Exterior signs pertaining to the uses conducted on the premises and not exceeding in the aggregate two (2) square feet in area for each linear foot of building frontage. Such signs may be located anywhere on the lot but shall not project more than thirty (30) inches into a street right-of-way unless attached to a marquee or sidewalk canopy. If attached to a free-standing structure, no such sign and structure shall exceed twenty-five (25) feet in height. If attached to a building, no such sign shall project above the height limit prescribed herein for a building. No sign or billboard shall face upon any adjoining lot in an "R" or "B-O" District.
- 14.302 Outdoor display of merchandise which is being actively marketed and to which the public has free access. (Ord. No. G-79-17, § 1, 10-11-79)

- 14.40 Required conditions.** Processes and equipment employed and goods processed, stored, or sold shall be limited to those which are not objectionable or hazardous by reason of odor, dust, smoke, steam, cinders, gas, fumes, noise, vibration, fire, explosion, radiation, refuse matter, or water-carried waste.
- 14.50 Height regulations.** No building or structure shall exceed sixty (60) feet in height, except as provided in section 19.20; and except, that farm structures may be built to any required height; and except, that adjoining a R or B-O District the setback for such building or structure from that adjoining lot line shall be one foot for each foot the building or structure is above ground level. (Ord. No. G-83-25, § 1, 4-7-83)
- 14.60 Lot area, lot width, and yard requirements.** The following minimum requirements shall be observed, subject to the modified requirements contained in section 19:

	<i>Min. Lot Area</i>	<i>Min. Lot Width</i>	<i>Front Yard Depth</i>	<i>Side Yards (width—each side)</i>	<i>Rear Yard (depth)</i>
Dwellings and other R Districts uses	Same as B-O District except that front yards shall be 20 feet				
Other permitted uses . .	Front yards shall be 20 feet, otherwise none except as provided in section 14.50				

(Ord. No. G-83-25, § 2, 4-7-83)

SECTION 15. M-1—LIGHT INDUSTRIAL DISTRICT

- 15.00** The following regulations, and the applicable regulations contained in other sections, shall apply in the M-1 Light Industrial District:
- 15.10 Principal permitted uses.** Subject to the conditions in section 15.30:
- 15.101** Any use or structure permitted and as regulated in the B-3 District, except dwellings, schools, hospitals, churches, clinics, and other institutions for human

care; provided, however, that any of such excepted uses legally existing in the M-1 District at the time of the adoption of this ordinance, or any amendment hereto, shall not be subject to any of the limitations or other regulations prescribed in this ordinance for nonconforming uses.

15.102 The manufacturing, compounding, processing, canning, packaging, or treatment of cosmetics, pharmaceuticals, and food products, except fish and meat products, sauerkraut, vinegar, yeast, and the rendering or refining of fats and oils. (See section 15.301).

15.103 The manufacturing, compounding, assembling or treatment of articles of merchandise from previously prepared materials such as bone, cloth, cork, fibre,

leather, paper, plastics, metal (except where punch presses of over twenty (20) tons rated capacity are employed), stone, thread, tobacco, wax, yarns or wood (except where saw mills or planing mills are employed); provided, however, that the board of zoning appeals may authorize, as an exception, the use of punch presses of over 20 tons rated capacity, where essential to a plant that complies in all other respects, on condition that such presses be of a type and so located and mounted, in a fully enclosed building, as may be necessary in the judgement of the board to comply with the conditions specified in section 15.302. (Ord. No. G-282, § 1.)

- 15.104 Manufacture of musical instruments, novelties, and moulded rubber or plastic products. (See sec. 15.301).
- 15.105 Manufacture or assembly of electrical appliances, instruments, and devices. (See sec. 15.301).
- 15.106 Manufacture of pottery or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas. (See sec. 15.301).
- 15.107 Laboratories—chemical, physical, and biological. (See sec. 15.301).
- 15.108 The manufacture and repair of electric signs, advertising structures, and light sheet metal products such as heating and ventilating equipment. (See sec. 15.301).
- 15.109 Plumbing and roofing shops. (See sec. 15.301).
- 15.110 Enameling, lacquering, or japanning, when accessory to a principal permitted use. (See sec. 15.301).
- 15.111 Storage warehouses or distributing plants, except for flammable liquids or explosives. (See sec. 15.301).
- 15.112 The following uses subject to compliance with two (2) times the distance requirements in sec. 6.18, as well as the conditions in sec. 15.30:
 - 15.11201 Automobile, truck, trailer, bus, implement, or similar equipment assembly or major repair shops; auto body or paint shops; tire recapping plant. (See sec. 15.301).
 - 15.11202 Bakeries, laundries, and dry cleaning and dyeing plants, not elsewhere permitted. (See sec. 15.301).
 - 15.11203 Blacksmith, welding or machine shops, excluding drop hammers and the like. (See sec. 15.301).

- 15.11204 Bottling plants for soft drinks. (See sec. 15.301).
- 15.11205 Creameries or milk processing and bottling plants, or distribution stations for dairy products. (See sec. 15.301).
- 15.11206 Ice or cold storage plant. (See sec. 15.301).
- 15.11207 Foundry casting lightweight non-ferrous metals, or electric foundry not producing noxious fumes or odors. (See sec. 15.301).
- 15.11208 Freight stations or truck terminals. (See sec. 15.301).
- 15.11209 Bag, carpet, and rug cleaning plants; provided, necessary equipment is installed and operated for the effective precipitation or recovery of dust. (See sec. 15.301).
- 15.11210 Building material sales or storage yards; lumber yards, including millwork; contractor's equipment storage yards or plants or storage and rental of equipment commonly used by contractors; storage and sale of feed or solid fuel, including custom grinding of feed, provided dust is effectively controlled; storage yards for vehicles of a delivery or draying service; storage of construction or maintenance vehicles, equipment, and supplies (such as poles, pipe, cable, or wire).
- 15.11211 Repealed by Ordinance No. G-207, § 1.
- 15.11212 Railroad yards and engine service facilities.
- 15.11213 Electric substations, water treatment plants and water tanks, standpipes, and pumping stations.
- 15.113 Billboards, not exceeding 500 square feet in area or 25 feet in height, each.
- 15.114 Fairgrounds maintained and operated by a public agency or a recognized nonprofit fair association; provided, that any part of such grounds used for a carnival, amusement park, circus, motor drome, or race-track, for motor vehicles, or livestock barns and sheds, shall be located at least 60 feet from any "R" district or "B-O" district.
- 15.115 Any other use that may be determined by the board

of appeals to be of the same general character as the foregoing permitted uses, but not including any use that is first permitted or is prohibited in the M-2 District.

15.20 Accessory uses. Accessory buildings and uses customarily incidental to any principal use, including those permitted in the B-3 District and others.

15.30 Required conditions.

15.301 All uses specified in sections 15.102 through 15.11209, inclusive, shall be conducted wholly within a completely enclosed building, except for parking, loading and unloading facilities, and outdoor parking and storage of recreational vehicles such as campers, travel trailers and boats mounted on trailers when operated in conjunction with a storage operation, provided such facilities are effectively screened by landscaping or fencing in compliance with section 6.24. (Ord. No. G-78-20, § 1, 11-16-78)

15.302 No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, objectionable, or offensive, by explosion, fire, or the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, radiation, refuse matter, or water-carried waste.

15.40 Height regulations. No structure shall exceed three (3) stories or forty (40) feet in height, except as provided in section 19.20; and except, that farm structures may be built to any required height.

15.50 Yard requirements. The following requirements shall be observed subject to the modified requirements contained in Section 19:

<i>Front Yard Depth</i>	<i>Side Yard Widths</i>	<i>Rear Yard Depth</i>
25 ft. (1)	10 ft. adjoining an R or B-O Dis- trict; otherwise none (1)	30 ft. adjoining an R or B-O Dis- trict; otherwise none (1)

(1) Or greater as may be specified elsewhere in this ordinance.
Supp. No. 17, 11-78

SECTION 15A. M-O—PLANNED INDUSTRIAL DISTRICT

15A.00 Intent. The district is intended to provide a park-like setting for a community of industries wishing to mutually maintain aesthetically pleasing appearances and operations having no nuisance factors as a means of protecting investments within the district and reducing the impact of industrial uses on surrounding districts. Tracts within the district are to be planned, promoted and developed for industries wishing the protection of performance standards provided for herein. The tracts are often large and generally open to constant and extensive public viewing in "show-case locations" in the community. Though leeway is provided concerning the type of industry permitted within the district, the appearance and means of operation shall be scrutinized and compared to the standards of performance provided herein and in no case shall residential uses be permitted as principal uses. No building, structure or land shall be used and no building or structure shall be hereafter erected, structurally altered, enlarged or maintained unless the following regulations are adhered to in all planned industrial districts.

15A.10 Principal permitted uses.

- (a) Office buildings for governmental agencies, regional and "home" corporate offices. These may include offices of insurance companies, investment concerns, trade associations, manufacturing companies, banks and trust companies. These shall not include any kind of retail facilities, except as modified by subparagraphs (g) and (h) below.
- (b) Research, experimental and testing laboratories.
- (c) Manufacture, compounding, processing, packaging, assembling or treatment of materials.
- (d) Warehousing and wholesale distribution centers for books, optical, pharmaceutical, paper, electrical and other products.

- (e) Any use of an industrial nature not prohibited in this section that can meet the performance standards and other guides and limitations set forth in this section.
- (f) Signs in accordance with subsection 15A.22 of this section.
- (g) Retail sales of the products or processes engaged in on the property; provided, that not more than ten per cent of the gross floor area is devoted to such use.
- (h) Those highway service commercial uses limited to motor inns, motels, restaurants and service stations.

These uses shall also be subject to the site plan approval by the planning commission.

15A.11 Permitted accessory uses.

- (a) Accessory uses such as water towers, stacks, antennae, storage bins, tanks or elevators, cooling towers, conduit or conveyor systems, air pollution control devices and other superstructures shall be permitted within completely enclosed buildings; otherwise, the design and placement shall be in an aesthetic manner and subject to planning commission review and approval as outlined in subsection 15A.15 of this section.
- (b) Underground pipelines, underground electric power and energy transmission lines, underground or overhead telephone and telegraph lines. Overhead electric power and energy transmission and distribution lines, serving the industry or industries located on the site, but subject to subsection 15A.26 of this section.
- (c) Food service and recreation areas for use by employees and guests.
- (d) Parking and loading facilities, areas for storage of materials, equipment, products and wastes shall be screened and/or located to minimize their visibility. Proposals for such areas shall be shown on the site plan as outlined in subsection 15A.15 of this section.

15A.12 Prohibited uses, except as modified elsewhere in this section.

- (a) All residential and retail commercial uses permitted in the R and B districts.
- (b) The manufacture, testing, distribution or other use of explosives.
- (c) Wholesale distribution of fuels, such as, but not limited to, coal, coke, gasoline, diesel fuel and propane.

15A.13 Special exceptions. The following uses may be permitted with board of zoning appeals approval as special exceptions in accordance with the provisions of section 21 of this appendix.

- (a) Heliport.
- (b) Public utility buildings and utility structures not otherwise permitted, including overhead electric power and energy transmission and distribution lines traversing the site and not used to serve the industry or industries on the site, aboveground pipelines, radio and television broadcasting stations and accessory structures.

15A.14 **Enforcement.** After occupancy, if there occurs continuous or frequent, even though intermittent, violations of the performance standards and provisions of these regulations for a period of sixty days, without bona fide and immediate corrective work, the zoning inspector shall suspend or revoke the zoning permit of the use and the operation shall immediately cease until it is able to operate in accordance with these regulations, at which time the zoning certificate shall be reinstated.

15A.15 **Application, review and site plan approval.** For those who do not intend to propose or make known the specific industry or other land use of the property, the standard procedure for rezoning will be followed for this district, then the requirements of subsections 15A.15 through 15A.26 of this section will be applicable at the time a zoning certificate is applied for.

For those applicants wishing to apply for rezoning and proposing a particular industry or other land use, the information required in subsections 15A.15 through 15A.26 of this section shall be submitted with the application for rezoning.

- (a) *Application.* In addition to submitting the plans and other data required in sections 20.20 through 20.24, an applicant for a zoning certificate in an M-O zone shall submit a plan of development to the planning and zoning commission, and a description of the proposed operation, including all machinery, processes and products and specifications for the mechanisms and techniques to be used in restricting the emission of dangerous and objectionable elements. However, the above requirements may be

relaxed or waived for certain operations or processes that obviously do not incorporate potential nuisance activities (e.g. an operation devoted to clerical work with the only machines being of the office variety including computers and other data processing equipment.)

- (b) *Review of application.* In reviewing the application, the planning commission may secure the advice or assistance of one or more expert consultants as qualified to advise as to whether a proposed use will conform to the applicable performance standards as set out in subsections 15A.15 through 15A.26 of this section. The assistance of a consultant, if sought, must be obtained promptly after the receipt of the application. Such consultant or consultants shall report within forty-five days after receipt of such request whether or not the use applied for will be operated with the performance necessary for conformance. A copy of the report of such consultants shall be furnished to the applicant. Applicants shall pay for the cost of such expert consultant. Applicant may provide advice of expert consultant in his initial application although this shall not preclude the planning commission from procuring advice from an independent expert consultant.
- (c) *Action by commission.* Following receipts of the consultant's report, if any, and upon approval of the site plan by the planning commission, as set forth in sub-subsection (e), the planning and zoning commission shall, at their next regular meeting, either approve, disapprove or require modifications in the plan as submitted. Any person may appeal to the mayor and board of aldermen for action of the planning commission in refusing to approve or in approving of any plan or plans submitted under the provisions of this appendix within a period of thirty days after decision by the planning commission. The mayor and board of aldermen, after hearing

evidence on behalf of the owner and planning commission, shall determine whether or not the planning commission's decision shall be sustained. Appeal from the action of the mayor and board of aldermen may be presented to the circuit court of the county in conformance with the procedures of such court, within thirty days after such action by the mayor and board of aldermen.

- (d) *Change in use.* A new zoning certificate shall be required if there are any major structural alterations or substantial variations from the operations referred to in the zoning certificate. However, any normal replacement or addition or equipment and machinery not affecting the foregoing operations or not changing the degree or nature of dangerous and objectionable elements shall not be considered a change in use.
- (e) *Site plan approval.* No zoning certificate shall be issued for any use except in accordance with a plan of development approved by the planning commission for the lot or tract on which such use is to be located. Such plan of development shall show the location and height of all buildings and structures; the area devoted to parking facilities and loading berths; all access roads, landscaping and screening plans; areas designated for outdoor storage; proposed signs, and other features required by this section. The planning commission shall consider the standards and objectives of the planned industrial district regulations and specifically the location of buildings, parking and loading areas, utilities and other features with respect to the topography of the lot and existing nature features such as watercourses, with the objective of achieving a maximum of co-ordination between the proposed use and the surrounding uses. The planning commission shall approve a plan of development if it meets the standards of these regulations. The planning commission shall submit its findings in

writing, together with the reasons therefor, to the applicant and the board of aldermen.

15A.16. **Performance standards.** It is the intent of these regulations to prevent land or buildings, including those permitted by right or special exception, from being used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive, radioactive or other hazardous condition, noise or vibration, smoke, dust, odor or other form of air pollution, electrical or other disturbances, glare or heat, liquid or solid refuse or wastes, condition conducive to the breeding of rodents or insects, or other substance, condition or elements (all referred to herein as "dangerous or objectionable elements") in a manner or amount as to adversely affect the surrounding area. Specifically, all uses shall operate in conformance with the limitations set forth in each sub-subsection below:

- (a) *Vibration.* No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or any point beyond the lot line; nor shall any vibration produced exceed 0.002g peak measured at or beyond the lot line using either seismic or electronic vibration-measuring equipment.
- (b) *Noise.* All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness. In no event shall the sound pressure level of noise radiated continuously from a facility at nighttime exceed at the lot line the values given in Table I in any octave band of frequency. However, where the lot line adjoins or lies within twenty-five feet of the boundary of a residence district, the sound-pressure levels of noise radiated at nighttime shall not exceed at the lot line the values given in Table II in any octave band of frequency. The sound-pressure level shall be measured with a sound level meter and an octave band analyzer that conform to specifications published by the American Standards Association (American Standard Sound

Level Meters for Measurements of Noise and Other Sounds, Z24.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards, Inc., New York, N.Y., shall be used.)

Table I

Maximum permissible sound-pressure levels at the lot line for noise radiated continuously from a facility between the hours of 9:00 P.M. and 7:00 A.M.

Frequency band cycles per second	Sound pressure level decibels re 0.002 dyne/cm ²
20-75	69
75-150	60
150-300	56
300-600	51
600-1,200	42
1,200-2,400	40
2,400-4,800	38
4,800-10,000	35

If the noise is not smooth and continuous and is not radiated between the hours of 9:00 P.M. and 7:00 A.M., one or more of the corrections in Table III below shall be added to or subtracted from each of the decibel levels given above in Table I.

Table II

Maximum permissible sound-pressure levels at a lot line for noise radiated continuously from a facility between the hours of

9:00 P.M. and 7:00 A.M., where the lot line adjoins or lies within twenty-five feet of the boundary of a residence district.

Frequency band cycles per second	Sound pressure level decibels re 0.0002 dyne/cm ²
20-75	65
75-150	50
150-300	43
300-600	38
600-1,200	33
1,200-2,400	30
2,400-4,800	28
4,800-10,000	26

If the noise is not smooth and continuous and is not radiated between the hours of 9:00 P.M. and 7:00 A.M., one or more of the corrections in Table III below shall be added to it or subtracted from each of the decibel levels given above in Table II.

Table III

Type of operation in character of noise	Correction in decibels
Daytime operation only	Plus 5
Noise source operates less than 20% of any one-hour period	Plus 5 ¹
Noise source operates less than 5% of any one-hour period	Plus 10 ¹
Noise source operates less than 1% of any one-hour period	Plus 15 ¹
Noise of impulsive character (hum, speech, etc.)	Minus 5
Noise of periodic character (hum, speech, etc.)	Minus 5

¹ Apply one of these corrections only.

- (c) *Air pollution, smoke, dust, fumes and particulate matter.*
- (1) No smoke, dust, fumes or particulate matter shall be perceptible at the lot line. (Not to include water vapor.)
- (2) Further, the regulations and standards governing the control of air pollution shall be the same as those adopted from area II, by the state department of health on March 29, 1968, and any subsequent amendments as long as such amendments are not less severe than those in force in the control of air pollution.
- (3) In the event that paragraph (b) above shall be of a lower standard than that of paragraph (a) above, the more severe standard shall apply.
- (d) *Odors.* Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be remedied so as to remove the odor.
- (e) *Electromagnetic radiation.* The following standards shall apply:
 - (1) Generally. It shall be unlawful to operate, or cause to be operated, any planned or intentional source of electromagnetic radiation for such purposes as communication, experimentation, entertainment, broadcasting, heating, navigation, therapy, vehicle velocity measurement, weather survey, aircraft detection, topographical survey, personal pleasure or any other use directly or indirectly associated with these purposes which does not comply with the then current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the Interdepartment Radio Advisory Committee shall take precedence over the

regulations of the Federal Communications Commission, regarding such sources of electromagnetic radiation. Further, such operation in compliance with the Federal Communications Commission or the Interdepartment Radio Advisory Commission regulations shall be unlawful if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, spurious reradiation, harmonic content, modulation or energy conducted by power or telephone lines. The determination of "abnormal degradation in performance" and "of quality and proper design" shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers and the Electronic Industries Association. In case of any conflict between the latest standards and principles of the above groups, the following precedence in the interpretation of the standards and principles shall apply: (1) American Institute of Electrical Engineers, (2) Institute of Radio Engineers and (3) Electronic Industries Association. Recognizing the special nature of many of the operations which will be conducted because of the research and educational activities, it shall be unlawful for any person to operate or cause to be operated, to maintain or cause to be maintained any planned or intentional source of electromagnetic energy, the radiated power from which exceeds one thousand watts, without the express approval of the planning commission. Further, it is required that any person intending to operate or cause to be operated, to maintain or cause to be maintained any planned or intentional source of electromagnetic energy, the radiated power from which exceeds ten watts, shall file, at least thirty days prior to

such operation, a description of the radiating device and the operating characteristics thereof with the planning commission.

- (2) Electromagnetic interference. For the purpose of these regulations, electromagnetic interference shall be defined as electromagnetic disturbances which are generated by the use of electrical equipment other than planned and intentional sources of electromagnetic energy which interfere with the proper operation of electromagnetic receptors of quality and proper design. It shall be unlawful to operate or to cause to be operated any source of electromagnetic interference, the radiation or transmission from which exceeds the maximum values tabulated in the following:

Radiated

Section of electromagnetic spectrum (from-to)	Primary intended service	Maximum field strength of edge of property containing interference source
10 kilocycles — 100 kc.	Communications service	500 microvolts/meter
100 kc. — 535 kc.	Navigational aids	300 microvolts/meter
535 kc. — 1605 kc.	AM broadcasting	200 microvolts/meter
1605 kc. — 44 megacycles	Various communications service	200 microvolts/meter
44 mc. — 88 mc.	VHF television Airport control	150 microvolts/meter
88 mc. — 174 mc.	FM broadcasting	200 microvolts/meter
174 mc. — 216 mc.	VHF television	150 microvolts/meter
216 mc. — 580 mc.	Navigational aids citizens radio	250 microvolts/meter
580 mc. — 920 mc.	UHF television	300 microvolts/meter
920 mc. — 30,000 mc.	Various	500 microvolts/meter

By Transmission or Conduction

Section of electro-magnetic spectrum (from-to)	Primary intended service	Maximum voltage measured line to line or line to ground where power or telephone lines cross edge of property contain- ing interference source
10 kilocycles — 100 kc.	Communications service	2.5 millivolts
100 kc. — 535 kc.	Navigational aids	1.5 millivolts
535 kc. — 1605 kc.	AM broadcasting	1.0 millivolts
1605 kc. — 44 megacycles	Various communica- tions service	0.5 millivolts
44 mc. — 88 mc.	VHF television	0.25 millivolts
38 mc. — 174 mc.	FM broadcasting Airport control	1.5 millivolts
174 kc. — 216 mc.	VHF television	0.15 millivolts
216 kc. — 580 mc.	Navigational aids Citizens radio	5.0 millivolts
580 mc. — 920 mc.	UHF television	20.0 millivolts
920 mc. — 30,000 mc.	Various	150 millivolts

- (3) Method of measurement. For the purpose of determining the level of radiated electromagnetic interference, standard field strength measuring techniques shall be employed. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured field strength exceeds the maximum value tabulated for this spectrum section. For purposes of determining the level of electromagnetic interference transmitted or conducted by power or telephone lines, a suitable, tunable peak reading, radio frequency voltmeter shall be used. This instrument

shall by means of appropriate isolation coupling, be alternately connected from line to line and from line to ground during the measurement. The maximum value of the tabulation shall be considered as having been exceeded if at any frequency in the section of the spectrum being measured, the measured peak voltage exceeds the maximum value tabulated for this spectrum section.

- (f) *Fire and explosion.* All activities and all storage of flammable and explosive materials at any point shall be provided with adequate safety and fire fighting devices.
- (g) *Radioactive materials.* The handling of radioactive materials, the discharge of such materials into the air and water and the disposal of radioactive wastes, shall be in conformance with the regulations of the Atomic Energy Commission as set forth in Title 10, Chapter 1, Part 20 — Standards for Protection Against Radiation, as amended, and all applicable regulations of the state.
- (h) *Glare and heat.* No direct or sky-reflected glare, whether from floodlights or from high temperature processes, such as combustion or welding or otherwise, so as to be visible at the lot line, shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this chapter. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.
- (i) *Nonradioactive liquid or solid wastes.* There shall be no discharge into any public or private sewage disposal system or stream, or into the ground, of any liquid or solid materials, except in accordance with the regulations of the city health department, and the department of water resources and the department of health of the state, as applicable.

15A.17 **Area requirements — net lot area.** Within the zoned area, each main building hereafter erected, together with its accessory buildings, shall be located on a lot having

an area of at least two acres, with the exception of public utility buildings and structures necessary for public convenience and service, which may be located on a lot having an area of one acre.

15A.18 Required yards and landscaped areas.

- (a) No principal or accessory building, parking area or loading or maneuvering area shall be located:
 - (1) Less than twenty-five feet from a side or rear lot line.
 - (2) Less than one hundred feet from the boundary of any "R" district.
 - (3) The commission shall give proper consideration to the minimum distances from street right-of-way lines or proposed street right-of-way lines so as to adequately protect adjacent "R" and "B" districts and the allowances of proper site distances.
- (b) The required yards, as established by the commission, shall be landscaped in accordance with the plan approved by the planning commission, as set forth in subsection 15A.15 (e) of this section. Landscaping shall mean the planting of grass, shrubs, trees and other comparable ground cover. All planting, screens or walls required in subsection 15A.23 of this section shall be located adjacent to parking areas rather than on the periphery of the lot. Such landscaped areas shall be maintained at all times.

15A.19 Street access and frontage.

- (a) Each lot shall have a minimum frontage of one hundred and fifty feet on a street or private way; provided, that the planning commission may approve a lesser frontage to a minimum of fifty feet for lots located on cul-de-sacs or on street curves or having other extraordinary characteristics. The commission shall give due consideration to permitting access from such sites only to major roadways.
- (b) Rights-of-way and pavements for on-site private streets:

As established by the planning commission in the site-plan review.

15A.20 **Building height limit.** The height of buildings or structures shall not exceed twenty feet, plus one-third of the horizontal distance (d) from the structure to the lot line (height = 20 feet + $1/30d$).

15A.21 **Spacing between buildings.** No building other than an accessory building shall be located closer to any other building than twenty-five feet.

15A.22 **Signs.**

(a) Signs displayed on any lot shall be limited to:

(1) Those necessary for directional or information purposes, but not exceeding four square feet in size per sign.

(2) Those necessary to identify the industrial development.

(3) Those necessary to identify the use or establishment, and designed as a part of the architectural design of the building or as a part of the site plan for any lot.

(b) Signs falling within category (2) above shall not exceed one square foot in size for each five linear feet of frontage of the street on which the sign faces, but not to exceed three hundred and sixty square feet. Signs falling within category (3) above shall not exceed one square foot from each horizontal linear foot of building wall facing on the street on which the sign faces.

(c) The design, size of lettering, lighting, etc., of all signs in categories (2) and (3) above shall accompany the site plan submission and shall meet the approval of the planning commission as a part of the site plan, as set forth in subsection 15A.15 of this section; provided, that additional signs may be added and existing signs changed after submission or approval of the site plan if notification thereof and the necessary description as above provided is given to the planning commission and if the addition or changes are approved

by the planning commission. Exterior spot lighting of a sign is permissible, but only if shielded so as to direct the light to the sign only.

- (d) Signs in categories (2) and (3) above are subject to one-half the setback requirements allowed for principal structures. Signs in category (1) above are not subject to any setback requirement.

15A.23 Off-street parking requirements.

- (a) Off-street parking shall be provided in accordance with the general provisions set forth in section 17.20; except, that for an industrial or manufacturing establishment or warehouse or similar use, the minimum requirement shall be one parking space for each one and one-half employees, or one for each two employees on combined major and second shifts, and in addition one visitor parking space for every ten employees; except, that the planning commission may authorize fewer visitor parking spaces if it finds that a fewer number will be sufficient for the operation anticipated. In addition to the foregoing, one parking space shall be provided for each company-owned or leased truck, passenger car or other vehicle located or principally based on the premises. No parking spaces may be located within required yards; except, that an area equivalent to not more than five per cent of the total area of all required parking space may be located within a required yard for use as parking spaces for visitors, selected personnel and minor deliveries. Off-street parking spaces may be grouped in facilities serving more than one lot or establishment.
- (b) When the lot on which parking spaces are located abuts the rear or side lot line of, or is across the street from any land in a residential zone other than publicly-owned land, a wall, fence or evergreen planting shall be maintained so as to screen substantially the parking lot from view from the nearest property in the residential zone. The screening shall be maintained in good condition at

all times. In parking lots of one acre or more, at least five per cent of the area of the parking lot shall be devoted to landscaping within the interior of the parking area. Luminaries on parking lots shall be subject to approval by the planning commission.

15A.24 Loading berth requirements.

- (a) Off-street loading berths shall be provided for all buildings in accordance with the following schedule:
 - (1) For a building with floor area of ten thousand to twenty-five thousand square feet: One berth.
 - (2) For each additional twenty-five thousand square feet or fraction thereof up to one hundred thousand square feet: One berth.
 - (3) For each additional fifty thousand square feet: One berth.
- (b) Such loading berths shall be at least fourteen feet wide, forty-eight feet long and fourteen feet in height (unless the planning commission shall find that only smaller trucks requiring less space will be used for a period of ten years), and may be located either within a building or in the open, but not within required yards. If such berths are not enclosed, they shall be located not less than three hundred feet from any residence zone boundary and effectively screened therefrom as in the case of parking areas, above. All access roads to loading berths shall be at least fourteen feet wide; except, that if tractor-trailers would be accommodated, then the roads shall be fourteen feet wide for one-way traffic and twenty-two feet wide for two-way traffic.

15A.25 Enclosed buildings and outdoor storage.

- (a) All permitted uses and accessory activities shall be confined within completely enclosed buildings with the exception of off-street parking spaces, off-street loading berths, and employee recreational facilities and those exceptions made elsewhere within this section.
- (b) Compressed gases and petroleum products incidental to a laboratory, a production operation, or the

servicing of company-owned or leased vehicles and fuel storage tanks utilized as part of the heating equipment of an establishment shall be located underground, or in a building or screened from view in a manner acceptable to the planning commission. Storage of compressed gases shall be further governed by any other provisions of this appendix.

- 15A.26 **Underground utilities.** All utilities shall be placed underground. Utilities shall include, but are not limited to, gas mains, telephone lines and electrical lines. Electric lines one hundred thirty-five kv and over and those items mentioned in subsection 15A.13 of this section are excluded from this subsection. (Ord. No. G-73-21, § 1.)

Section 16.

M-2 — GENERAL INDUSTRIAL DISTRICT.

- 16.00 The following regulations and the applicable regulations contained in other sections shall apply in the M-2 General Industrial District:
- 16.10 **Principal permitted uses.** Subject to the conditions in sec. 16.50:
- 16.101 Any use not prohibited altogether in the M-2 District, by this section or by any other law or ordinance, subject to the following locational restrictions for specified uses:
- 16.102 The following uses when located not less than 300 feet from any "R" or "B-O" District and not less than 100 feet from any other "B" District:
- Asbestos manufacturing.
 - Boiler shops, structural steel fabricating shops, car or locomotive shops, metalworking shops employing any reciprocating hammers or any punch presses over 20 ton rated capacity.
 - Brewery, or distillation of alcohol.
 - Brick, pottery, tile or terra cotta manufacturing.
 - Candle or sperm oil manufacturing.
 - Coal yards.

Concrete or paving materials mixing or batching plants, and manufacturing of concrete products.
Cooperage works.
Crematory.
Creosoting or pressure-treating of wood.
Disinfectant, insecticide, or poison manufacturing.
Dye or dyestuff manufacturing.
Electric generating plant.
Enameling, lacquering, or japanning.
Emory cloth or sandpaper manufacturing.
Feed, flour, or grain mill.
Felt manufacturing.
Forge or foundry works.
Gas generation or storage, for heating or illumination, including liquefied gas.
Grain drying, or poultry feed manufacturing from refuse, mash, or grain.
Hair or hair products manufacturing.
Inflammable liquid storage, underground in any amount, or aboveground if less than 40,000 gallons.
Linoleum, celluloid, oil cloth, or oiled goods manufacturing.
Livestock sales yards and buildings.
Match manufacturing.
Meat packing; but not stockyards or slaughterhouses.
Oil, paint, shellac, turpentine, varnish, or enamel manufacturing, or the grinding of colors by machine.
Paper or pulp manufacturing.
Perfume manufacturing.
Pickle, sauerkraut, or sausage manufacturing.

Plaster manufacturing.
 Poultry slaughtering, including packing and storage,
 for wholesale.
 Printing ink manufacturing.
 Radium extraction.
 Rubber, caoutchouc, gutta percha, or balata manu-
 facturing or treatment.
 Sandblasting or cutting.
 Sawmill, planing mill, or the manufacture of excel-
 sior, wood fibre, or sawdust products.
 Sewage disposal plant.
 Shoddy manufacturing.
 Shoe blacking or polish or stove polish manufactur-
 ing.
 Stone or monument works employing power-driven
 tools.
 Sugar refining.
 Tar or asphalt roofing or water-proofing manufactur-
 ing.
 Tar distillation or manufacturing.
 Veterinary hospital or clinic.
 Vinegar manufacturing.
 Wire or rod drawing, or nut, screw, or bolt manufactur-
 ing.
 Yeast manufacturing.

Any other use which, in the opinion of the board,
 is of a similar character to those specified above.

16.103 Quarrying, mining, crushing, washing, screening, stor-
 age, and transportation of stone, gravel, sand, soil, or
 clay, on land already owned by a company engaged in
 such operations on May 1, 1962; provided, no such
 quarrying or mining operations shall be conducted
 within 100 feet of any property line and no crushing,
 washing, or screening plant shall be located within
 600 feet of any "R" or "B-0" District or within less
 than 200 feet of any other "B" District; and provided
 also, that all such uses shall comply with the pertinent
 requirements in sec. 18.40.

16.20 **Conditional uses requiring appeals board authoriza-
 tion.** And subject to the conditions in sec. 16.50:

16.201 The following uses when the location of each use shall
 have been authorized by the board of appeals; pro-

vided, that any such use shall be located at least 600 feet from any "R" or "B-0" District and at least 200 feet from any other "B" District:

Abattoirs and slaughter houses or stock yards.

Acetylene manufacture or storage in excess of 15 pounds pressure per square inch.

Acid manufacturing or wholesale storage of acids.

Ammonia or bleaching powder manufacturing or bleaching plants.

Asphalt products plants.

Cement plants, lime kilns.

Distillation of bones, coal, wood, turpentine, or varnish.

Explosives or fireworks manufacturing or storage.

Fat rendering.

Fertilizer manufacturing.

Garbage, offal, or dead animal reduction or dumping.

Glue manufacturing.

Inflammable liquids refining, or storage above-ground in excess of 40,000 gallons.

Junk yards including auto wrecking yards, provided every such premises shall be enclosed by a solid board fence or wall not less than 6 feet high.

Quarrying, mining, crushing, washing, screening, storage, and transportation of stone, gravel, sand, soil, or clay; provided, that all such uses shall comply with the requirements in sec. 18.40.

Smelting or reduction of ores or metallurgical products.

Soap manufacturing, except from vegetable oils.

Any other use which in the opinion of the board is of a similar character to those specified above.

16.30 Accessory uses. Subject to the conditions in section 16.50:

16.301 Accessory uses and structures permitted and as regulated in the M-1 District, except as hereinafter modified.

16.302 Other uses and structures customarily accessory and incidental to a permitted principal use or an authorized conditional use, except of a type which is permitted only subject to board authorization.

16.40 Prohibited uses.

16.401 Any use in conflict with any ordinance of the City of Frederick or of Frederick County, or law of the State of Maryland, regulating nuisances.

16.402 Any dwelling, school, hospital, church, clinic or other institution for human care; provided, however, that any such use which is incidental to a permitted principal use shall be a permitted use; and provided further, that any such use legally existing in the M-2 District at the time of the enactment of this ordinance, or any amendment hereto, shall not be subject to any of the limitations or other regulations prescribed for nonconforming uses elsewhere in this ordinance.

16.403 Any trailer park.

16.50 Required conditions.

16.501 The best practicable means available for the disposal of refuse matter of water-carried waste, the abatement of obnoxious or offensive odors, dust, smoke, gas, noise, vibration, radiation, or similar nuisance, and protection against fire and explosion, shall be employed.

16.502 The requirement in section 15.301, that certain businesses, services, or processing permitted in the M-1 District be conducted within a completely enclosed building, shall not apply in the M-2 District.

16.60 Height regulations. No structure within six hundred (600) feet of any "R" or "B-O" District shall exceed three (3) stories or fifty (50) feet in height, except as provided in section 19.20; and except, that farm structures may be built to any required height.

16.70 Yard requirements. The following requirements shall be observed, subject to the modified requirements contained in Section 19:

<i>Front yard Depth</i>	<i>Side yard Widths</i>	<i>Rear yard Depth</i>
25 ft. (1)	50 ft. adjoining an "R" or "B-0" Dis- trict; otherwise none (1)	50 ft. adjoining an "R" or "B-0" Dis- trict; otherwise none (1)

(1) Or greater as may be specified elsewhere in this ordinance.

SECTION 17. OFF-STREET PARKING AND LOADING FACILITIES

17.00 General requirements:

- (a) No building or structure shall be erected, substantially altered or its use changed unless permanently maintained off-street parking and loading spaces have been provided in accordance with the provisions of this section.
- (b) The provisions of this section, except where there is a change of use, shall not apply to any existing building or structure. Where the new use involves no additions or enlargements, there shall be provided as many of such spaces as may be required by this section.
- (c) Whenever a building or structure constructed after the effective date of this section* is changed or enlarged in floor area, number of employees, number of housing units, seating capacity or otherwise to create a need for an increase in the number of existing parking spaces, additional parking spaces shall be provided on the basis of the enlargement or change in accordance with this section; provided, that whenever a building or structure existing prior to the effective date of this ordinance is enlarged to the extent of fifty (50) per cent or more in floor area, number of employees, number of housing units, seating capacity or otherwise,

*August 1, 1973.

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such building or structure shall then and thereafter comply with the full parking requirements set forth herein.

- 17.10 Parking space dimensions.** A parking space shall have minimum rectangular dimensions of not less than:

9 feet by 20 feet for 90-degree parking;
9 feet by 22 feet for parallel parking;
10 feet by 19 feet for 60-degree parking;
12 feet by 19 feet for 45-degree parking.

All dimensions shall be exclusive of driveways, aisles and other circulation areas. The number of required off-street parking spaces is established in subsection 17.30 of this section. (Ord. No. G-81-12, § 1, 8-13-81)

- 17.11 Loading space requirements and dimensions.** A loading space shall have minimum dimensions of not less than twelve (12) feet in width, fifty (50) feet in length, exclusive of driveways, aisles and other circulation areas, and a height of clearance of not less than fifteen (15) feet. One off-street loading space shall be provided and maintained on the same lot for every separate occupancy requiring delivery of goods and having a modified gross floor area of up to five thousand (5,000) square feet. One loading space shall be provided for each additional ten thousand (10,000) square feet or fraction thereof.

- 17.12 Paving.** The required number of parking and loading spaces as set forth in subsections 17.11 and 17.30, together with driveways, aisles and other circulation areas, shall be improved with acceptable impervious material to provide a durable and dust-free surface.

- 17.13 Drainage.** All parking and loading areas shall provide for proper drainage of surface water to proper areas so as not to affect adjacent properties or walkways.

- 17.14 Lighting.** Any parking area which is intended to be used during non-daylight hours shall be properly illuminated to avoid accidents. Any lights used to illuminate a

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parking lot shall be so arranged as to reflect the light away from the adjoining property.

- 17.15 **Screening or landscaping.** Open parking located at grade or on a roof shall be screened from all surrounding properties. Such screening shall measure not less than four (4) feet nor more than six (6) feet in height. In lieu of such screening, solid or perforated fencing may be utilized, provided not more than fifty (50) per cent of its surface area is open. In lieu of the above procedure, an applicant may submit a site plan showing all proposed screening and landscaping to the planning commission for its approval providing that all adjacent property owners be notified of the meeting by the planning commission by mail at least ten (10) days prior to the meeting at which such plan will be presented.
- 17.16 **Required trash areas.** All commercial, industrial and multifamily residential uses that provide trash or garbage collection areas shall be enclosed on at least three (3) sides by a solid wall or fence of at least four (4) feet in height if such area is not within an enclosed building or structure. Provisions for adequate vehicular access to and from such area or areas for collection of trash or garbage as determined by the commission shall be required.
- 17.20 **Minimum distance and setbacks.** In no case shall any part of a parking area be closer than eight (8) feet to any established street or alley right-of-way.
- 17.21 **Width of driveways.** Driveways serving individual parking spaces shall not be less than twenty-four (24) feet wide for ninety-degree parking, twelve (12) feet wide for parallel parking, seventeen and one-half (17½) feet for sixty-degree parking, and thirteen (13) feet for forty-five-degree parking.
- 17.22 **Access.** Any parking area shall be designed in such a manner that any vehicle leaving or entering the parking area from or into a public street shall be traveling

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in a forward motion. Access or driveways for parking areas or loading spaces shall be located in such a way that any vehicle entering or leaving such lot shall be clearly visible for a reasonable distance to any pedestrian or motorist approaching the access or driveway from a public or private street. Interior vehicular circulation by way of access roads shall maintain the following minimum standards: For one-way traffic the minimum width of fourteen (14) feet except for forty-five-degree parking in which case the minimum width of the access road shall be seventeen (17) feet. Access roads for two-way traffic shall have a minimum width of twenty-four (24) feet. Parking areas having more than one aisle or driveway shall have directional signs and markings in each aisle or driveway.

17.23 Striping. All parking areas with a capacity over twelve (12) vehicles shall be striped with double lines six (6) inches both sides of center, between stalls to facilitate the movement into and out of the parking stalls.

17.24 Joint use.

(a) Joint parking uses in accordance with the provisions of subsections (b) and (c) of this subsection shall be permitted only if:

- (1) The structure or uses set forth in such subsections shall not normally be opened or used during the principal operating hours of the joint structures or uses; and
- (2) The parties and the land concerned with such joint use are effectively bound by a legal document the legal sufficiency of which shall be subject to the approval of the city attorney.

(b) Subject to the provisions of subsubsection (a) of this subsection:

- (1) Not more than fifty (50) per cent of the off-street parking facilities required for theatres, bowling alleys or establishments for the sale and consumption of food, alcoholic beverages or refreshments (on the premises) may be supplied by banks, business offices, clothing stores, furniture stores, household equipment stores, manufacturing buildings and similar uses, personal service shops and retail stores.
- (2) The off-street parking facilities required for a church or auditorium incidental to a public or parochial school may be supplied by banks, business offices, clothing stores, furniture stores, household equipment stores, manufacturing buildings and similar uses, personal service shops and retail stores.

(3) Not more than fifty (50) per cent of the off-street parking requirements of banks, business offices, clothing stores, furniture stores, household equipment stores, manufacturing buildings and similar uses, personal service shops and retail stores may be supplied by theaters, bowling alleys or establishments for the sale and consumption of food, alcoholic beverages or refreshments (on the premises.)

(c) If, for any reason, any requirement of subsection (a) of this subsection is no longer fulfilled, the joint use of parking facilities shall cease, and the respective structures or uses shall comply with the remaining provisions of this subsection.

17.25 Determination of parking and loading requirements.

- (a) Parking and loading requirements per area shall be determined by the total gross floor area utilized for the main use (excluding incidental service, storage and mechanical areas).
- (b) Parking and loading requirements per seat shall be determined by the number of the individual seats. For purposes of bench type seating, twenty (20) inches shall be the equivalent of one seat.
- (c) Parking and loading requirements per rated capacity shall be determined by the maximum capacity of a building governed by the city fire prevention code.
- (d) Parking and loading requirements shall be provided for any fraction in excess of fifty per cent of the base measures set forth in subsection 17.30 of this section.

17.30 Parking space requirements. For the purpose of this section, the following parking space requirements shall apply:

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<i>Type of Use</i>	<i>Parking Spaces Required</i>
17.31 Residential.	
(1) Single-family or two-family dwelling or duplex dwelling	Two (2) for each unit
(2) Apartment-hotels, apartments or multifamily dwellings	One (1) space per unit plus one-half ($\frac{1}{2}$) space for each bedroom in the dwelling unit
(3) Boardinghouses, rooming houses	Two (2) for each sleeping room
(4) Townhouses (Ord. No. G-76-17, § 1, 7-8-76)	Two (2) for each unit
17.32 Commercial.	
(1) Automobile service and sales garages	One (1) space per each three hundred (300) square feet of floor area
(2) Hotels, motels	One (1) for each sleeping room plus one (1) for each two (2) employees
(3) Funeral parlors, mortuaries and similar-type uses	One (1) for each one hundred fifty (150) square feet of floor area devoted to viewing
(4) Retail stores	One (1) for each one hundred fifty (150) square feet of floor area excluding preparation and/or storage areas
(5) Banks, financial institutions and similar uses	One (1) for each one hundred fifty (150) square feet of floor area excluding storage area
(6) Offices, public or professional administration, or service buildings	One (1) for each three hundred (300) square feet of floor area

<i>Type of Use</i>	<i>Parking Spaces Required</i>
(7) All other types of businesses or commercial uses permitted in any commercial district	One (1) for each three hundred (300) square feet of floor area

17.33 Recreational or entertainment.

(1) Dining rooms, restaurants, taverns, night clubs, etc.	One (1) space per each fifty (50) square feet of floor area devoted to customer service, but excluding food preparation and storage
(2) Bowling alleys	Four (4) for each alley or lane plus one (1) additional space for each one hundred (100) square feet of the area used for restaurant, cocktail lounge or similar use
(3) Skating rinks	One (1) for each one hundred (100) square feet of floor area used for the activity
(4) Outdoor swimming pools, public or community or club	One (1) for each five (5) persons capacity plus one (1) for each four (4) seats or one (1) for each thirty (30) square feet floor area used for seating purposes, whichever is greater
(5) Auditorium, sport arenas, theaters and similar uses	One (1) for each four (4) seats

17.34 Institutional.

(1) Churches and other places of religious assembly	One (1) for each five (5) seats
(2) Hospitals	One (1) for each bed

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<i>Type of Use</i>	<i>Parking Spaces Required</i>
(3) Sanitariums, homes for the aged, nursing homes, children's homes, asylums and similar uses	One (1) for each two (2) beds
(4) Medical and dental clinics	One (1) for every three hundred (300) square feet of floor area of examination, treating room office, and waiting room
(5) Medical and dental offices with three (3) or less professional practitioners	Six (6) spaces per practitioner
(6) Libraries, museums and art galleries	One (1) for each four hundred (400) square feet floor area

17.35 Schools (public, parochial or private).

(1) Elementary and junior high schools	Two (2) for each classroom and one (1) for every eight (8) seats in auditoriums or assembly halls
(2) High schools	One (1) for every ten (10) students and one (1) for each teacher and employee

<i>Type of use</i>	<i>Parking spaces required</i>
(3) Business, technical and trade schools	One for each two students.
(4) Colleges, universities	One for each four students.
(5) Kindergartens, child care centers, nursery schools and similar uses	Two for each classroom, but not less than six for the building.

17.36 Industrial:

- | | |
|--|--|
| (1) All types of manufacturing, storage and wholesale uses permitted in any district | One for every two employees (on the largest shift for which the building is designed) plus one for each motor vehicle used in the business. |
| (2) Cartage, express, parcel delivery, and freight terminals | One for every two employees (on the largest shift for which the building is designed) and one for each motor vehicle maintained on the premises. |

17.37 **Shopping centers.** In the case of shopping centers, the overall floor plan which has been approved by the planning commission, the off-street parking requirements set forth in subsection 17.30 for individual uses shall be modified so as to require five and one-half off-street parking spaces for each one thousand square feet of gross leaseable area within the approved shopping center plan. For the purpose of this section, gross leaseable area is defined as that portion of the shopping center's enclosed building area which is leased and utilized by tenants within the center and excludes interior malls and corridors. Shopping centers now in existence or for which building permits have been issued as of the date of the enactment of this section shall qualify under this subsection although the overall plan may not have been approved by the planning commission. For the purposes of this section, a shopping center shall be defined as any B-1 zoned or B-3 zoned area of five or more acres under one common ownership.

- 17.40 **General interpretations.** In the interpretation of this section, the following rules shall govern:
- (a) Parking spaces for other permitted or conditional uses not listed in this section shall be determined by the board.
 - (b) Fractional numbers shall be increased to the next whole number.
 - (c) Where there is an adequate public transit system or where for any other reason parking requirements are unusually low, then the parking space provisions cited above may be reduced proportionately by the board.
 - (d) When determining the number of parking spaces required for structures having more than one function or use within it, then the sum of the individual requirements shall apply. This does not apply to subsection 17.37.
- 17.50 **Exceptions.** In the B-2 Central Business district, no off-street parking areas shall be required for existing buildings or uses; nor shall any such parking areas be required for any new building, addition or use for which the off-street parking requirement, as determined by the foregoing schedule, would be less than fifty spaces; but for other buildings and uses the full parking requirements shall be met. In the Historic district, the board shall give special consideration to the preservation of historic structures and other structures having special architectural or civic value. (Ord. No. G-73-17, § 1.)

Section 18.

SPECIAL PROVISIONS.

- 18.10 **Trailer coaches.** Parking of a trailer for residence purposes in any district shall be prohibited; except, that one (1) trailer may be parked or stored in an enclosed garage or other accessory building provided it shall not be occupied for living or business purposes while parked or stored. Provided, however, that on a farm one trailer may be used as living quarters by members of the

immediate family owning or operating the farm, or by a tenant family, or any employees primarily engaged in the operation of the farm, which trailer shall be subject to the distance requirements in subsection 6.18; and provided also that this regulation shall not prohibit the temporary parking, display, or storage of any trailer, or its temporary use as an office or other place of business, in any district in which such sales or business is permitted, on condition that such parking, display, storage, or use shall not continue for more than six (6) months.

18.20 Billboards and real estate signs.

18.21 *Outdoor advertising signs and billboards.* Billboards, where permitted, shall be set back from the established right-of-way line of any street or highway at least as far as the required front yard depth for a principal building; provided, however, that at an intersection along any major street or highway any outdoor advertising sign or billboard shall not be less than one hundred (100) feet from the established right-of-way line of the intersecting road, unless separated therefrom by an existing building.

18.211 No such sign or billboard shall face any lot in any "R" or "B-O" District within one hundred (100) feet thereof; or any public park, public square, public or parochial school, library, church, or similar institution, or a historical shrine, building, or other landmark maintained as such by a public agency or a nonprofit organization such as an historical society, within three hundred (300) feet thereof.

18.22 *Real estate sign.* Temporary real estate signs advertising improved property shall be set back from the front lot line at least one-half ($\frac{1}{2}$) the distance required for a principal building; and no zoning certificate for the erection of such real estate sign shall be required provided it conforms with this and other provisions of this ordinance. Other real estate signs shall be set back

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from every street line at least a distance in feet equal to one-half ($\frac{1}{2}$) the number of square feet area of the sign; provided, that such setback shall be not less than forty (40) feet from the established right-of-way line in any "R" District and not less than the front yard depth required for a principal building in any "B" or "M" District; except, that such setback need not be more than one hundred (100) feet. No more than two (2) permanent community identification signs for each major street entrance identifying a reasonably defined residential complex or neighborhood shall be permitted provided such signs do not exceed one square foot in area for each four (4) dwelling units located within such complex or neighborhood. Each sign shall not exceed six (6) feet in height. A site plan approved by the planning department or planning commission must accompany each application for a zoning certificate for such signs and clearly identify the neighborhood, number of units, and locations, and size of all proposed community identification signs. (Ord. No. G-81-13, § 1, 8-13-81)

- 18.23 *Rental complexes.* Rental complexes may place upon their directional sign an additional sign no larger than three (3) square feet to be securely mounted to and removable from the identification or directional sign stating "now renting" or other similar language. (Ord. No. G-81-9, § 9, 1, 5-28-81)
- 18.30 *Garden housing projects.* A housing project consisting of two (2) or more single-family, two-family, or multifamily dwellings, and their customary ac-

buildings and uses, arranged on a single lot and meeting the lot area, height, yard, and other applicable requirements specified for the district in which it is proposed to be located, may be authorized by the board of appeals after public notice and hearing in accordance with section 21.33. If proposed in the R-3 District, such authorization shall not be granted until after receipt by the board of a report from the planning commission approving the project as to location and other planning consideration, as follows: (Ord. No. G-73-8, § 1)

- 18.301 Suitability of location in relation to major streets, other access streets, traffic conditions, adjacent land utilization, parks or other open spaces, water and sewer facilities, and the like.
- 18.302 Acceptability of proposed building arrangement and site development plan in relation to adjacent properties and to the public street system.
- 18.303 Repealed by Ordinance No. G-80-10, § 1, adopted June 12, 1980.
- 18.31 Upon receipt by the board of the planning commission's approval and if the board finds after public hearing that the proposed project will constitute a residential environment of continuing desirability and stability, in harmony with the character of the surrounding neighborhood and ensuring substantially the same or a higher standard of occupancy as obtains or may be expected to obtain in said neighborhood, that it will produce a degree of open space commensurate with that prevailing or specified in the district in which it is located, that there will be no use of the property other than for residential purposes and their customary accessory uses such as private garages, storage spaces, and recreational and community activities, that adjacent property will not be adversely affected, and that the proposed project will be consistent with the intent and purpose of this

ordinance to promote the public health, safety, morals, and general welfare, it may authorize the issuance of a zoning certificate therefor, under such conditions and limitations as it may specify in order to secure the foregoing objectives.

- 18.32 In the case of a garden housing project, in any district in which such project may be permitted, where the contemplated arrangement of buildings makes it impracticable to apply the normal lot, yard, and other requirements of this ordinance to the individual buildings in the project, the board of appeals may authorize such project notwithstanding its irregular arrangement, subject to the following conditions:
- 18.321 Every dwelling in such project shall front either on a street or other permanent public open space at least thirty (30) feet wide, or on a common yard or outer court. The width of such yard, if flanked by buildings on one side only, shall be at least equal to the height of the highest building fronting thereon, but not less than thirty (30) feet in any case; and if flanked on both sides by buildings, at least equal to one-half ($\frac{1}{2}$) the sum of the heights of said buildings, but shall not be less than fifty (50) feet in any case, and need not exceed eighty (80) feet. The width of an outer court shall conform to the requirements for such courts in subsection 6.13. No structure of any sort other than an unenclosed shelter, terrace, fountain or other ornamental feature shall be erected in any such yard or court.
- 18.322 Every dwelling in such project shall be not farther than sixty (60) feet from a roadway or drive having a right-of-way of at least twenty (20) feet wide providing vehicular access to a public street, and not farther than five hundred (500) feet, measured along the route of vehicular access, from a public street or from a private street which has a paved width of at least twenty-four (24) feet and which

connects with a public street at two (2) or more places.

- 18.323 Every room in each dwelling unit in such project, other than a bathroom, pantry, or other accessory room not for living or sleeping purposes, shall open upon a yard or outer court.
- 18.324 In respect to use, height, minimum lot size, lot area per family, and minimum yard requirements for the lot as a whole, such project shall conform to the re-

quirements of this ordinance for the district in which it is to be located, except as modified hereinafter.

- 18.325 The least distances between separate buildings for dwelling purposes, wherein the "end" of a building shall be a wall, other than a front or rear wall, not longer than fifty (50) feet, shall not be less than the following:
- a. Between the front or rear of one building and the front or rear of another building: One-half ($1/2$) the sum of the heights of the opposing buildings, but not less than forty (40) feet in any case and need not exceed sixty (60) feet.
 - b. Between the front or rear of one building and the end of another building: Three-tenths ($3/10$) of the sum of the heights of opposing buildings, but not less than thirty (30) feet in any case and need not exceed fifty (50) feet.
 - c. Between the end of one building and the end of another building, or between any part of any two buildings other than as hereinbefore provided: One-fifth ($1/5$) of the sum of the heights of opposing buildings, but not less than twenty (20) feet in any case and need not exceed forty (40) feet; except, that this distance may be reduced to ten (10) feet in case the perpendicular projection of a wall of one building would not overlap the other building more than ten (10) feet and provided there is no window in any wall thus overlapped.
- 18.326 The least distance between a building for dwelling purposes and an accessory building not for dwelling purposes, or between two such accessory buildings, shall not be less than one-half ($1/2$) the height of the higher of the two buildings, but not less than ten (10) feet in any case and need not exceed thirty (30) feet.
- 18.327 Off-street parking facilities shall be provided in accordance at least with the requirements of section 17.20.
- 18.328 Recreation areas shall be provided in accordance with the requirements in subsection 18.303.
- 18.40 **Quarrying and mining.** The following provisions shall apply to all quarrying and mining operations, includ-

ing strip mining, borrow pits, soil stripping, and the like, wherever permitted by this ordinance:

- 18.401 All roads within the premises, and all machinery and equipment, shall be maintained and operated in such a manner as to minimize dust, noise, vibration, and other adverse features. In no event shall such machinery or equipment, whether movable or fixed, be permitted to create conditions hazardous to health or safety.
- 18.402 Access to such operations shall be from major streets or highways as directly as possible, avoiding residential streets.
- 18.403 Protective fencing shall be erected and maintained between any quarry or other pit and any public road or property line located within 100 feet thereof, and also about any quarry where the mining operations have ceased for a period of three (3) years. Such fencing shall be a chain-link fence at least six (6) feet high.
- 18.404 Whenever all mining operations on the premises are terminated, all quarries and pits not already fenced shall be fenced in the manner specified in the foregoing paragraph 18.403 and all fences previously erected shall be placed in a safe and secure condition, or other satisfactory arrangements shall be made for a safe and desirable continuing use or disposition of the property. Responsibility for so protecting, using, or disposing of the property shall rest in the owner of the property or his successors in title.
- 18.405 Mined-out areas shall be rehabilitated for some further use, and shall be placed in a safe and sightly condition. Sand, gravel, clay, or soil pits shall be drained if feasible, regraded, and planted if necessary, so as to minimize erosion and leave the property in a healthy and usable condition. Steep banks shall be graded down to not to exceed a four-to-one slope. In the case of borrow pits, the topsoil shall first be removed and stockpiled and then respread at the completion of the mining operation.
- 18.406 An application for a zoning permit for any use specified in this section shall set forth the following information:

- (a) Name of the owner or owners of the property on which the mining or processing operation is to be conducted;
 - (b) Name of the applicant for the zoning permit;
 - (c) Name of the person or corporation which is to conduct the mining or processing operation;
 - (d) Location, size, general description, and a map of the area from which the removal is to be made;
 - (e) Kinds of materials to be removed;
 - (f) Proposed method of mining and processing;
 - (g) Description of the mining equipment to be used;
 - (h) Location and nature of the processing plant;
 - (i) Fuels to be used in the operation;
 - (j) Methods of dust control to be employed;
 - (k) Mode of transportation of materials, including access roads to be used from nearest major street or highway;
 - (l) Proposed methods of rehabilitation of mined-out areas.
- 18.407 Before authorizing any use specified in this section, the board shall obtain an adequate bond or other satisfactory guarantee to ensure the provision of adequate fencing and the rehabilitation of the land as required herein.
- 18.41 Existing quarries, mines, and their buildings and other facilities, as of the time of enactment of this ordinance, shall be subject to the following requirements:
- A. Where existing operation, buildings, or facilities meet the distance requirements specified in this ordinance for the district in which they are located, such distances shall not be reduced to less than said distance requirements, and where the existing distances are already less they shall not be further reduced.
 - B. All such existing establishments shall be subject to compliance with the requirements and provisions of the foregoing subsections 18.401 through 18.405 inclusive.
- 18.50 **Fall-out shelters.** Fall-out shelters, consisting of a structure or portion thereof designed for and intended to provide protection to human life during periods of danger to human life from nuclear fall-out,

air raids, storms, or other emergencies, may be constructed, erected and maintained in any district as principal or accessory uses, subject to all yard and area requirements applicable in the district where located.

- 18.51 *Location and yard encroachments:* Such shelters may be contained in other structures or may be constructed separately. In "R" or "B-0" Districts, fall-out shelters may occupy any area or yard which may be occupied by a principal or accessory building. If entirely underground, fall-out shelters may be constructed within any yard, including front yards, which otherwise are required by this article to be kept and maintained free from buildings and structures; provided, that no part of said underground shelter shall project above the average grade of such yard, including ventilating devices; and provided, that no entrance or exit shall open into such yard.
- 18.52 *Joint shelters:* The board of appeals may authorize, as a conditional use, construction of joint shelters by one or more property owners. In authorizing such joint shelters, the board may modify or waive the side and rear yard requirements on the lot or lots directly involved in the construction of the joint shelter; provided, that all applicable yard requirements shall be met where the lot involved in the joint shelter abuts property not included in the project.
- 18.53 *Other uses for shelters:* The board of appeals may permit a fall-out shelter to be used also for other purposes permissible in the district in which the shelter is located, if the board finds that all of the general requirements of this ordinance concerning such uses are satisfied, and also: (a) that the use other than as a shelter is compatible with the shelter proposed; (b) that the function as a shelter would not be materially impaired by the proposed use; and (c) that the use in question other than the shelter would have been authorized regardless of whether the shelter was involved.
- 18.54 *Approval by civil defense authority:* As a precondition to the authorization by the board of appeals of any shelter for which such authorization is required

herein, the applicant shall obtain from the local civil defense authority a certificate of approval concerning the suitability and adequacy of the design of the proposed shelter.

- 18.60 **Planned unit developments.** In any R District, a plan for the subdividing and development of a tract of land comprising not less than thirty (30) acres may be submitted to the planning commission with written application for its approval, which development may include lots having less area or width than herein prescribed for the district in which it is located, and the planning commission, at its discretion, may approve such development and authorize the use of such lots provided the following conditions are met:
- 18.601 No lot in such development shall be reduced by more than twenty (20) per cent in area or width, or to less width than fifty (50) feet in any case.
- 18.602 The side yard widths may be reduced in proportion to the reduction in lot width.
- 18.603 The total number of lots in the development shall not exceed the number that would have been produced by a conventional plan in which all the lots are of at least the minimum size prescribed for the district.
- 18.604 Repealed by Ordinance No. G-80-10, § 1, adopted June 12, 1980.
- 18.605 The average area per lot of all lots in the subdivision (excluding nonresidential lots) shall be not less than the minimum lot area prescribed for the same class of dwellings in the same district. (Ord. No. G-80-10, § 1, 6-12-80)
- 18.606 Where any lots adjoin a major highway or railroad, or a multifamily, commercial, industrial, or other nonresidential area, the planning commission may require such lots to have at least the minimum size prescribed for the district.

- 18.61 In exercising its discretion as to the approval or disapproval of a planned unit development, the planning commission shall be guided by considerations of suitability and desirability of such development in relation to its location and surroundings. No such development shall be approved unless the commission finds that it will constitute a residential environment of continuing desirability and stability, in harmony with the character of the surrounding neighborhood and ensuring substantially the same or a higher standard of occupancy as obtains or may be expected to obtain in said neighborhood, and that it will be desirable for the community in all other respects as well.
- 18.70 **Planned neighborhoods.** In any R or B District, except an R-1 District, a plan for the development of a tract of land comprising not less than fifty (50) acres may be submitted to the planning commission with written application for its approval, which development may include certain uses other than those permitted in the district as principal uses, for the purpose of creating a more-or-less self-contained neighborhood having a variety of housing types and related service facilities. The planning commission, at its discretion and after a duly advertised public hearing, may approve such a plan and authorize the issuance of zoning certificates in accordance therewith, subject to the following conditions: (Ord. No. G-82-9, § 1, 6-10-82)
- 18.701 The additional uses to be permitted may include town houses, cluster houses, apartments and other multifamily dwellings, and their customary accessory uses, as well as commercial uses as provided herein. The distribution of the commercial area within a planned neighborhood shall not exceed either the total area equal to the existing B districts, or any area equal to one acre for every one hundred (100) dwelling units, whichever is greater. The provisions of section 18.30, Garden housing projects, and of section 18.60, Planned unit developments, may be incorporated in a planned neighborhood design. In the event the planned neighborhood design includes a B district or districts, the permitted

uses allowed in said districts may be permitted in the planned neighborhood. The planning commission shall have the authority to deny any such commercial plan if found to be inconsistent with the planned neighborhood purpose as stated in sections 18.70 and 18.71. (Ord. No. G-82-9, § 1, 6-10-82)

- 18.702 With the approval of the planning commission, the dwelling units in the planned neighborhood may be of types other than those permitted in the districts, as principal uses. Said units may be allowed at the discretion of the planning commission in order to moderate the esthetic impact of the planned neighborhood. Total density shall not exceed allowances as specified in section 18.705. (Ord. No. G-82-9, § 1, 6-10-82)
- 18.703 Not more than ten (10) per cent of the buildings may exceed the normal height limit for the district, but no building shall exceed eight (8) stories or ninety (90) feet in height.
- 18.704 Repealed by Ordinance No. G-80-10, § 1, adopted June 12, 1980.
- 18.705 The average residential density (number of dwelling units per acre) shall not exceed the density that would have obtained if the tract had been laid out in a conventional manner in accordance with normal zoning and subdivision requirements. In computing residential density, the areas allocated to commercial uses and to the necessary public streets shall be excluded, but the areas provided for public or community recreation, schools, churches, parking areas, or private streets shall be allowed as a credit—provided that any public school site for which credit is claimed, shall be dedicated to the public without cost.
- 18.706 In respect to use, height, minimum lot size, lot area per family, and minimum yard requirements, the normal requirements for the district shall apply to the tract as a whole and to each lot or part that is intended for separate ownership, except as modified herein, and except that the appropriate provisions of

section 18.60, planned unit developments, may be applied to groups of lots that are intended for individual ownership.

- 18.71 In exercising its discretion as to the approval or disapproval of a planned neighborhood, the planning commission shall be guided by considerations of suitability and desirability of such development in relation to its location and surroundings. No such development shall be approved unless the commission finds that it will constitute a primarily residential environment of continuing desirability and stability, in reasonable harmony with the character of the surrounding neighborhood and ensuring substantially the same or a higher standard of occupancy as obtained or may be expected to obtain in the surrounding community generally, and with it will be desirable for the community in all other respects as well. (Ord. No. G-217, § 1)
- 18.80 **Required screening for commercial and industrial uses when adjacent to a residential district.** Prior to the issuance of a building permit for a commercial or industrial use that is adjacent to the side or rear of a residentially zoned lot, the owner or authorized representative shall submit to the city engineer's office a plan for effectively screening the proposed use. The plan shall be based upon the drawing adopted by the Frederick City Planning and Zoning Commission, on file in the office of the city engineer. A variance from this minimum standard may be granted by the board of zoning appeals if the applicant can show evidence that such requirement is impractical in his particular and unique situation; however, the board may not waive the requirements of the section in total.
- 18.90 **Liquified petroleum gases.** The storage, handling, design, construction, installation and opera-

tion of liquefied petroleum gases shall be governed by the National Fire Protection Association (NFPA) booklet No. 58, as it may be subsequently amended, and by specific requirements of the zoning district within which such use may be located. Containers of liquified petroleum gases installed outside of buildings, either temporarily or permanently, shall be located the following distances from any building or adjacent property line:

<i>Water Capacity per Container (gallons)</i>	<i>Minimum Distances</i>		
	<i>Containers Underground</i>	<i>Containers Aboveground</i>	<i>Between Aboveground Containers</i>
Less than 125	10 feet	None	None
125 to 250	10 feet	10 feet	None
251 to 500	10 feet	10 feet	3 feet
501 to 2,000	25 feet	25 feet	3 feet
2,001 to 30,000	50 feet	50 feet	5 feet
30,001 to 70,000	50 feet	75 feet	(¹ / ₄ of sum of dia-
70,001 to 90,000	50 feet	100 feet	meters of adjacent containers)

(Ord. No. G-70-13, § 1; Ord. No. G-73-26, § 1)

Section 19.

GENERAL EXCEPTIONS AND MODIFICATIONS.

- 19.00 The regulations specified in this section shall be subject to the following exceptions, modifications, and interpretations:
- 19.10 **Use of existing lots of record.** In any district where dwellings are permitted, a single-family dwelling may be located on any lot or plot of official record as of the effective date of this ordinance, the owner of which does not own any adjacent land, irrespective of its area or width or the width of the street on which it fronts, subject to the following requirements:
- A. In the "R-1", "R-2", and "R-3" Districts, the sum of the side yard widths of any such lot or plot need not exceed thirty-five (35) per cent of the

width of the lot, but in no case shall any one side yard be less than fifteen (15) per cent of the width of the lot. In the "R-4" and "B" Districts, the provisions of section 10.51 shall govern.

- B. The depth of the rear yard of any such lot need not exceed forty (40) per cent of the depth of the lot,

but in no case shall it be less than twenty (20) feet.

C. In case the right-of-way of the street on which the lot fronts is less than fifty (50) feet wide, the depth of the front yard shall be the required depth for the district plus twenty-five (25) feet, measured from the center line of the street.

19.20 **Structures permitted above height limit.** The building height limitations of this ordinance shall not apply to:

19.21 Penthouses or roof structures for housing stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building; fire or parapet walls, belfries, towers, steeples, domes, flag poles, silos, smoke stacks, chimneys, masts, water tanks, monuments, or other roof superstructures that project into the air.

19.22 Bulkheads, elevator pent houses, water tanks, monitors, and scenery lofts; provided, no linear dimension of any such structure exceeds fifty (50) per cent of the corresponding street lot line frontage; or to towers, monuments, fire towers, hose towers, cooling towers, grain elevators, gas holders, derricks, radio or transmission towers, windmills, or other structures where the manufacturing process or use requires a greater height. Provided, however, that no such structure shall exceed 150 feet in total height above ground, and that all such structures above the heights otherwise permitted in the district shall not occupy more than twenty-five (25) per cent of the area of the lot and shall be distant not less than twenty-five (25) feet in all parts from every lot line not a street lot line.

19.23 Churches; schools, institutional buildings, public utility buildings and structures, and any buildings or structure in the "M-2" District if not less than six hundred (600) feet distant from any "R" or "B-0" District; provided, that for each three (3) feet by which the height of such building or structure exceeds the maximum height otherwise permitted in the district, its side and rear yards, where required, shall be increased in width or depth by an additional foot over the minimum side and rear yards required for the

highest building otherwise permitted in the district; and where not otherwise required, a side yard on each side and a rear yard shall be provided equal in width or depth to one (1) foot for each three (3) feet of such excess height.

19.30 Area requirement modifications.

19.31 In any district or in any case where lots of less than twenty thousand (20,000) square feet area or one hundred (100) feet width are permitted, such lots shall be connected to the city water and sewer systems; otherwise, every lot shall meet the requirements for lots in the "R-1" District.

19.32 In the "R-1" District, the otherwise specified lot area and frontage requirements for a single-family dwelling may be reduced to not less than fifteen thousand (15,000) square feet and eighty-five (85) feet, respectively; provided, the lot on which such dwelling is proposed to be built meets all the following conditions:

- A. Said lot is located in and is a part of an officially approved and recorded subdivision.
- B. Said lot has no immediate vehicular access (private driveway) and will not have such access to any state or county highway or other major street designated on the major street plans of Frederick and vicinity.
- C. The appropriate health officer has certified that the area of said lot at the proposed site will be large enough to satisfy all applicable requirements concerning water supply and the disposal of sanitary wastes.

19.40 Front yard modifications.

19.41 In built-up areas, where the average depth of at least two (2) existing front yards on developed lots within one hundred (100) feet of a lot in question and within the same block front is less or greater than the least front yard depth prescribed elsewhere in this ordinance, the required depth of the front yard on such lot in question shall be modified. In such case, this shall not be less than the average depth of said existing front yards, or the average depth of the existing front yards on the two (2) lots immediately adjoining

if shallower, or, in the case of a corner lot, the depth of the front yard on the lot immediately adjoining; provided, however, that the depth of a front yard on any lot in any "R" or "B-O" District shall be at least ten (10) feet and need not exceed fifty (50) feet. In the case of an existing front yard for a building so old, dilapidated, or insignificant that in the opinion of the zoning inspector it should be disregarded in determining the proper front yard for a proposed building, the zoning inspector shall disregard it and shall determine the proper front yard depth from other applicable criteria. Such a decision by the zoning inspector may be appealed to the board of appeals as provided in section 21.31.

- 19.42 In the case of a subdivision for which a plat has been officially and properly recorded, on which plat any building setback or yard lines are designated which differ from those prescribed in this ordinance for the district in which such subdivision or part thereof is located, then such setback lines shall govern; and the establishment of such setback lines by deed or covenant, recorded in a court of record, instead of by depiction on a plat, shall have the same effect.
- 19.43 In the case of any street having a right-of-way less than fifty (50) feet wide, no building shall hereafter be placed within twenty-five (25) feet of the center line of such street, any other provision hereof to the contrary notwithstanding.
- 19.50 **Through lots.** Buildings on through lots shall provide the required front yards on both streets. However, a through lot abutting a denied access street, as established by the master street plan and/or the planning commission, shall be required only one front yard and one rear yard. (Ord. No. G-78-17, § 1, 8-10-78)
- 19.60 **Rear and side yard modifications.**
- 19.61 *Adjoining an alley.* In computing the depth of a rear yard or the width of a side yard, where the rear or
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side yard opens on an alley, one-half ($\frac{1}{2}$) of the alley width may be included as a portion of the rear or side yard as the case may be; except, that no building or structure for which a side yard is required shall be erected within three (3) feet of such an alley.

- 19.62 *Building over forty feet deep.* Where the length of a side yard adjacent to the side wall of a building is more than forty (40) feet, measured parallel to the adjoining side lot line, the otherwise specified least widths shall be increased by two (2) inches, and the sum of both side yards by four (4) inches, for each foot by which such length exceeds forty (40) feet; provided, that no side yard need exceed in width one-half ($\frac{1}{2}$) of the average of the side wall of the building along which it is located.
- 19.63 *Irregular side wall of building.* The side yard width may be varied where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular. In such case the average width of the side yard shall not be less than the otherwise required least width; provided, however, that such side yard shall not be narrower at any point than one-half ($\frac{1}{2}$) the otherwise required least width, or narrower than three (3) feet in any case.
- 19.63A. *Irregular rear lot line.* The location of the rear or side setback line for irregular rear lot lines shall be determined as follows: The average horizontal distance measured from those parts of the structure facing the irregular lot line shall establish the location of the structure for the purpose of determining whether said structure meets the side yard or rear yard requirements of this ordinance. (Ord. No. G-70-51, § 1)
- 19.64 *Corner lots.* A side yard along the side street lot line of a corner lot, which lot abuts in the rear either directly or across an alley the side lot line of another lot in an "R" or "B-O" District, shall have

a width of not less than one-half ($\frac{1}{2}$) the required depth of the front yard on such other lot fronting on the side street.

19.70 Projections and encroachments.

19.71 The following architectural features may project into the required yards or courts as hereinafter set forth:

19.711 Into any required front yard, rear yard, outer court, or required side yard adjoining a street side lot line;

19.7111 Cornices, canopies, eaves or other architectural features may project a distance not exceeding two (2) feet six (6) inches.

19.7112 Fire escapes may project a distance not exceeding four (4) feet six (6) inches.

19.7113 An uncovered stair and necessary landings may project a distance not to exceed six (6) feet; provided, that such stair and landing shall not extend above the entrance floor of the building except for a railing not to exceed three (3) feet in height.

19.7114 Bay windows, balconies, and chimneys may project a distance not to exceed three (3) feet; provided, that such features do not occupy, in the aggregate, more than one-third ($\frac{1}{3}$) of the length of the wall on which they are located.

19.7115 Open porches and open carports may project to within not less than five (5) feet of a side lot line except that for a duplex, town house or other dwelling unit sharing a side wall with another dwelling unit, the porch shall be at least three (3) feet from that common side wall. The porch may be permitted on the common side wall by written consent of the adjoining property owner. (Ord. No. G-79-13, § 1, 9-6-79)

19.7115a Open porches may extend into a rear yard a distance not to exceed one-third ($\frac{1}{3}$) of the required depth of the rear yard. (Ord. No. G-79-15, § 1, 9-6-79)

19.712 Subject to the conditions specified above, the above-named features may project into any required side yard adjoining an interior side lot line a distance not to exceed one-fifth (1/5) of the required least width of such side yard, but not to exceed three (3) feet in any case.

19.72 Fences, walls and hedges may not be located in required yards or courts except as follows, and subject to the limitation in subsection 6.15:

19.721 Fences and walls not exceeding at any point six (6) feet in height above the elevation of the surface of the ground at such point may be located in any rear yard or side yard area; provided, that on a reversed corner lot no such fence, wall or hedge, within twenty-five (25) feet of the side lot line of the adjoining lot, shall be closer to the street side lot line than a distance equal to the least depth of the front yard required for a one story building on such adjoining lot.

19.722 Before fences can be constructed in the rear yard of a through lot which abuts a denied access street as established by the master street plan and/or the planning commission, a landscape plan pursuant to section 6.24 must be submitted and approved by the city engineer. (Ord. No. G-78-22, § 1, 11-16-78)

SECTION 20. ADMINISTRATION AND ENFORCEMENT

20.10 **Administration by the zoning inspector.** There is hereby established the office of zoning inspector. It shall be the duty of the zoning inspector to administer and cause the enforcement of the provisions of this ordinance in accordance with its administrative provisions. All departments, officials, and public employees vested with the duty or authority to issue permits or licenses shall conform to the provisions of

this ordinance and shall issue no permit or license for any use, building, or purpose, if the same would be in conflict with the provisions hereof. Any permit or license issued in conflict with the provisions of this ordinance shall be null or void.

20.20 Zoning certificate.

20.21 It shall be unlawful for anyone to begin an excavation for or start the construction, reconstruction, extension, conversion, or structural alteration of any building or structure, or to place any building or structure on any land, or to change the use of any land or building from one zoning classification to another, without first obtaining a zoning certificate therefor from the zoning inspector. Such zoning certificate shall show that such building or premises or part thereof, and the proposed use thereof, are in conformity with the provisions of this ordinance. No zoning certificate, however, shall be required for any agriculture building or use when located more than two hundred fifty (250) feet from any nonfarm dwelling and from any other lot in any R District, and more than one hundred (100) feet from any public street.

20.22 Every application for a zoning certificate shall be signed by the applicant, and shall be accompanied by a plat in triplicate, drawn to such scale as the zoning inspector may require, showing the location and actual shape and dimensions of the lot to be built upon or used, the names of adjacent street and the house number for the lot, the locations, sizes, and heights of any existing buildings or structures on the lot, or adjacent thereto and having a bearing thereon, the location, size, and height of the building or part thereof to be constructed, the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate, and (if no buildings are involved the location of the pres-

ent use and the proposed use to be made of the lot, and such other information with regard to the lot and neighboring lots as may be necessary to provide for the enforcement of this ordinance. All dimensions shown on these plans, relating to the location and size of the lot to be built upon, shall be based on actual survey or deed description, or on an officially recorded subdivision plat. The lot and the location of the building or other improvements

to be erected thereon shall be staked out on the ground and an inspection thereof obtained from the zoning inspector, before construction is started.

- 20.23 The zoning inspector shall arrange for the issuance of zoning certificates in coordination with the building permits or other required permits. In the case of a building or land situated outside the corporate limits of the city but within one mile radius thereof, the zoning inspector, upon issuing a zoning certificate, shall forward it to the county zoning inspector for coordination with the required county permits; but if no county permit is required, he shall forward the zoning certificate directly to the applicant. If any approval is required of the location or design of any driveway, drainage structure, well, septic tank, or other matter in such one-mile area, then the county zoning inspector is hereby authorized to retain the city zoning certificate until such approvals or permits are issued.
- 20.24 A zoning certificate shall become void six (6) months after the date of issuance if the construction or use for which the certificate was issued has not been started.
- 20.30 **Certificate of occupancy.** Upon the completion of any building or structure, or its reconstruction, extension, conversion, or structural alteration, for which a zoning certificate was issued, such building or structure shall not be occupied or used until a certificate of occupancy shall have been issued by the zoning inspector. Such certificate shall show that the building or premises or part thereof, and the authorized use thereof, are in conformity with the provisions of this ordinance. It shall be the duty of the zoning inspector to issue a certificate of occupancy upon completion of the building or structure, provided he finds upon inspection that such building, structure, and use do comply with these provisions.

- 20.31 The zoning inspector may issue a temporary certificate of occupancy, for all or part of a building pending its completion, or for a temporary use in connection with a construction project, but not for any period exceeding one year.
- 20.32 Upon written request from the owner or tenant, the zoning inspector shall issue a certificate of occupancy for any building or premises lawfully existing at the time of enactment of this ordinance, certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this ordinance.
- 20.33 The owner or operator of every sand, gravel, or clay pit, mine, quarry, or related processing establishment existing at the time of adoption of this ordinance shall apply within six (6) months for a certificate of occupancy, and such certificate shall be issued showing the nature and extent of such operations as of that date.
- 20.40 **Fees.** A filing fee shall accompany each application for a zoning certificate, and also each application for a certificate of occupancy where no zoning certificate is required, as may be fixed from time to time by order of the mayor and board of aldermen; except, that no fee shall be charged to any government agency.
- 20.50 **Violations and penalties.** It shall constitute a municipal infraction to locate, erect, construct, reconstruct, enlarge, change, maintain, or use any structure or land in violation of any regulation in or any provision of this Appendix A of the Code of the City of Frederick or any amendment or supplement thereto, or to fail to comply with any requirement or condition imposed by the board of appeals or planning commission. The penalty for violation shall be the sum of fifty dollars (\$50.00). (Ord. No. G-80-6, § 1, 5-1-80)

- 20.51 All zoning certificates and certificates of occupancy shall be valid subject to continued compliance with all requirements and conditions; otherwise, they shall be revocable.
- 20.60 **Violations—How prevented.** In case any building is or is proposed to be located, erected, constructed, reconstructed, altered, extended, repaired, converted, maintained, or used, or any land is or is proposed to be used, in violation of this ordinance or any amendment or supplement thereof, the mayor and board of aldermen, said zoning inspector, or any adjacent or neighboring property owner who would be specifically dam-

aged by such violation, in addition to other remedies provided by law, may bring proceedings for injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, restrain, correct, or abate such unlawful location, erection, construction, reconstruction, alteration, extension, repair, conversion, maintenance or use, to prevent the occupancy of said building or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

Section 21.

ZONING BOARD OF APPEALS.

- 21.10 **Appointment.** The zoning board of appeals heretofore established and appointed in accordance with section 22.30 of the City Code (of 1953) adopted June 14, 1951, and with the provisions of article XV of the Charter of the City of Frederick, is hereby continued and confirmed. The number of members of said board, their terms of office, succession, removal, filling of vacancies, and their general powers and duties shall all be as provided in said article XV. The members of the board in office at the time this ordinance becomes effective shall continue to serve until the expiration of their respective terms of office, and their successors shall then be appointed for terms of four years each, continuing the established arrangement whereby at least one term expires each year. The board of aldermen may determine from time to time the compensation to be made to the members of the zoning board of appeals and its employees.
- 21.11 **Organization.** The board shall be organized in accordance with article XV of the Charter. It shall adopt rules necessary for conducting its business and carrying out the provisions of this ordinance. It may appoint such employees as may be authorized from time to time by the board of aldermen. Meetings of the board shall be held at the call of the chairman, and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the

public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed immediately in the office of the board and shall be a public record. The board may call upon any city official or department head for assistance in the performance of its duties, and it shall be the duty of such officers to render such assistance to the board as may reasonably be required.

21.20 Applications, appeals, hearings and stay of proceedings.

21.21 Applications—*When and by whom taken.* An application, in cases in which the board has original jurisdiction under the provisions of this article, may be taken by any property owner, including a tenant, or by a governmental officer, department, board or bureau. Such application shall be filed with the zoning inspector who shall transmit it to the board, and the board shall return the same to the zoning inspector with the board's action noted thereon.

21.22 Appeals—*When and by whom taken.* An appeal to the board may be taken by any person aggrieved, or by any officer, department, board or bureau of the city affected, by any decision of the zoning inspector. Such appeal shall be taken within twenty (20) days after the decision, by filing with the zoning inspector and with the board a notice of appeal specifying the grounds thereof. The zoning inspector shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

21.23 Hearings. The board shall fix a reasonable time for the hearing of the application or appeal, shall give at least ten (10) days notice of the time and place thereof in a newspaper of general circulation in the city, as well as due notice to the parties in interest, shall cause the property to be posted conspicuously with a notice of the hearing to be prescribed by the board, and shall decide the same within a reasonable time. At the hear-

ing, any party may appear in person or by agent or attorney.

- 21.24 *Stay of proceedings.* An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning inspector certifies to the board, after notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by restraining order which may be granted by the board or by a court of record on application, after notice to the zoning inspector and on due cause shown.
- 21.25 *Action by the board.* In exercising its powers, the board may, in conformity with the provisions of the Charter and of this ordinance, reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of at least four members of the board shall be necessary to reverse any order, requirement, decision, or determination of the zoning inspector, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance.
- 21.26 *Repeated applications.* If an application or appeal is disapproved by the board of appeals, thereafter the board shall not be required to consider another application for substantially the same proposal, on the same premises, until after one year from the date of such disapproval. If an application or appeal to the board is perfected and the public hearing advertised, and thereafter the applicant withdraws the application or appeal, he shall be precluded from filing another application or appeal for substantially the same proposal on the same premises for six months.
- 21.27 *Fees.* A filing fee of twenty (20) dollars shall accompany each application or appeal to the board.

- 21.30 **Powers of the board of appeals.**
- 21.31 *Administrative errors.* The board of appeals shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance.
- 21.32 *Interpretation and adjustment of zoning map and district lines.* The board may determine, after notice to the owners of the properties affected and after public hearing, boundaries of districts as follows:
- 21.321 Where the street or lot layout actually on the ground, or as recorded, differs from the street and lot lines as shown on the zoning maps, the board shall interpret the maps in such a way as to carry out the intent and purpose of this ordinance for the particular section or district in question.
- 21.322 Where the boundary line of a district divides a lot held in a single ownership on the effective date of this ordinance, the board may permit the extension of a district, but not more than one hundred (100) feet beyond said boundary line.
- 21.33 *Temporary uses.* The board may authorize the temporary use of a building or premises in any district for a purpose or use that does not conform to the regulations prescribed by this ordinance for the district in which it is located; provided, that such use be of a temporary nature and does not involve the erection of substantial buildings. Such certificate shall be granted in the form of a temporary and revocable permit for not more than a twelve (12) month period subject to such conditions as will safeguard the public health, safety, convenience and general welfare.
- 21.34 *Conditional uses and exceptions.* The board shall have the power to hear and decide applications for conditional uses, or for decisions upon other special questions on which the board is authorized by this ordinance to pass. All such applications shall be deemed to be for exceptions authorized by section 188 of the City Charter. In considering an application for a conditional use or other exception, the board shall give due regard to the nature and condition of all adjacent uses and structures; and in authorizing a conditional use

or exception the board may impose such requirements and conditions with respect to location, construction, maintenance and operation—in addition to those expressly stipulated in this ordinance for the particular conditional use or exception—as the board may deem necessary for the protection of adjacent properties and the public interest.

- 21.341 In addition to permitting the conditional uses and exceptions hereinbefore specified, the board shall have the power to permit the following conditional uses and special exceptions:
- A. A business use in any "R" District, next door to a nonconforming business or industrial use or between two such uses.
 - B. On a lot adjoining or in a building adjoining a nonconforming use, a use of the next higher classification.
 - C. A transitional use on the boundary of an "R-1", "R-2", or "R-3" District where it adjoins a "B" District, but not extending more than 100 feet into the "R" District, consisting of any use permitted in the "R-4" District; or where any "R" or "B-0" District adjoins an "M" District, a use permitted in any "B" District.
 - D. Within an "R-1" or "M" District, the disposal of wastes by the sanitary fill method.
- 21.342 In connection with the authorization of any conditional use or exception, the board may require the installation, operation, and maintenance in or in connection with the proposed use, of such devices and methods of operation as may, in its opinion, be reasonably required to prevent or reduce hazardous or congested traffic conditions, odor, dust, smoke, gas, noise, or similar nuisances, and it may impose such other conditions and requirements as may be necessary in its opinion to protect adjacent properties and neighborhoods and prevent conditions which may become obnoxious or offensive. In authorizing a conditional use or exception, subject to compliance with certain conditions, the board shall require from the owners, less-ees, or tenants of the property for which this conditional use or exception is granted such evidence, writ-

ten agreement, guarantee, or bond as it may deem necessary, to ensure that the conditions stipulated by the board are being and will be complied with. Any such written agreement may be required by the board to be recorded among the land records of Frederick County, at the expense of the applicant.

- 21.35 *Nonconforming uses.* The board may authorize issuance of a zoning certificate, after public hearing, for the following:
- 21.351 The substitution for a nonconforming use of another nonconforming use, if no structural alterations are made except those required by law or regulation; provided, however, that in any "R" District, no change shall be permitted to any use prohibited in a "B" District, and in any "B" District no change shall be permitted to any use prohibited in an "M-1" District.
- 21.352 The extension or completion of a building devoted to a nonconforming use, or the construction of other buildings in addition thereto, upon a lot occupied by such building, or on a lot adjoining; provided, that such lot was under the same ownership as the lot in question on the date such building became nonconforming, and where such extension is necessary and incidental to the existing use of such building; provided, however, that the floor areas of such extensions or additions shall not exceed, in all, thirty-five (35) per cent of the floor area of the existing building or buildings devoted to a nonconforming use; and provided further, that such extensions or additions shall be undertaken within five (5) years of the date when the use of such building became nonconforming.
- 21.353 The extension of a nonconforming use throughout those parts of a building which were manifestly designed or arranged for such use prior to the effective date of this ordinance, if no structural alterations, except those required by law, are made therein.
- 21.36 *Variances.* Where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property on the effective date of this ordinance, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or of the use or development

of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this ordinance would involve practical difficulty or would cause unnecessary hardship—unnecessary to carry out the spirit and purpose of this ordinance—the board shall have power upon appeal in specific cases, filed as hereinbefore provided, to authorize a variance from the terms of this ordinance so as to relieve such hardship and so that the spirit and purpose of this ordinance shall be observed and substantial justice done. In authorizing a variance, the board may attach thereto such conditions regarding the location, character, and other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of this ordinance and in the public interest. In authorizing a variance, with attached conditions, the board shall require such evidence and guarantee or bond as it may deem to be necessary, that the conditions attached are being, and will be complied with.

21.361 No such variance in the provisions or requirements of this ordinance shall be authorized by the board unless the board finds, beyond reasonable doubt, that all the following facts and conditions exist;

- A. That there are exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, that do not apply generally to other properties or classes of uses in the same zoning district.
- B. That such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same zoning district and in the same vicinity.
- C. That the authorizing of such variance will not be substantial detriment to adjacent property, and will not materially impair the purposes of this ordinance or the public interest.

21.362 No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property, or the intended use of said property, for which variance is sought—one or the other or in combination—is not of so general or

recurrent a nature as to make reasonably practicable the formulation of a general regulation for such condition or situation, to be adopted by the mayor and board of alderman as an amendment to this ordinance.

- 21.40 **Limitations, guides and standards.** Where in this ordinance certain powers are conferred upon the board of appeals, or the approval of the board of appeals is required before a permit may be issued, or the board is called upon to decide certain issues, such board shall study the specific property involved and the neighborhood, cause the property to be posted in a conspicuous place, hold a public hearing, and consider all testimony and data submitted, and shall hear any person for or against the issuance of the permit. However, the application for permit shall not be approved where the board finds the proposed building, addition, extension of building or use, sign, use, or change of use would adversely affect the public health, safety, security, morals, or general welfare, or would result in dangerous traffic conditions, or would jeopardize the lives or property of people living in the neighborhood. In deciding such matters the board shall give consideration, among other things, to the following:
- a. The purpose, application, interpretation, and standards of these regulations as set forth in sections 1, 2, and 3.
 - b. Decisions of the circuit court for Frederick County and the court of appeals of Maryland.
 - c. The orderly growth and improvement of the neighborhood and community.
 - d. The most appropriate use of land and structures in accordance with a comprehensive plan.
 - e. Facilities for sewers, water, schools, transportation, and other services, and the ability of the city or county to supply such services.
 - f. The limitations of fire-fighting equipment, and the means of access for fire and police protection.
 - g. The effect of such use upon the peaceful enjoyment of people in their homes.
 - h. The number of people residing, working, or studying in the immediate areas.
 - i. The type, character, and use of structures in the

vicinity, especially where people are apt to gather in large numbers such as schools, churches, theatres, hospitals, and the like.

j. Traffic conditions including facilities for pedestrians, such as sidewalks and safety zones, and parking facilities available and the access of cars to highways.

k. The preservation of cultural and historic landmarks.

l. The conservation of property values.

m. The effect of odors, dust, gas, smoke, fumes, vibration, glare, or noise upon the uses of surrounding properties.

n. The contribution, if any, such proposed use, building or addition would make toward the deterioration of areas and neighborhoods.

21.50 **Limited effect of an exception, variance, etc.** Where the board approves an exception, variance, or other application or appeal under these regulations, such approval shall not change the use classification of the building, nor give it any status as a nonconforming use other than it may already have had, nor qualify any adjacent property for any special treatment such as an exception or variance, nor shall there be another change of use without approval of the board.

21.60 **Court review.** Any person jointly or severally aggrieved by any decision of the zoning board of appeals, or any taxpayer, or any officer, department, board, or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after filing of the decision in the office of the board.

21.61 Upon the presentation of such petition the court may allow an appeal to review such decision of the zoning board of appeals and shall prescribe therein the time within which a return thereto must be made and served upon the appellant's attorney, which shall not be less than ten days and may be extended by the court. The

allowance of the appeal shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

- 21.62 The zoning board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or such portions thereof as may be called for by such appeal. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- 21.63 If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify, the decision brought up for review.
- 21.64 All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.
- 21.65 An appeal may be taken to the court of appeals from any decision of the court of record reviewing the decisions of the zoning board of appeals.

Section 22.

DISTRICT CHANGES AND OTHER AMENDMENTS.

- 22.00 **Procedure for amendment or district changes.** This section may be amended utilizing the procedures specified in subsections 22.0 to 22.9, inclusive, of this section.
- 22.10 **Generally.** Whenever the public necessity, convenience, general welfare or good zoning practices require, the mayor and board may, by ordinance, after receipt of recommendation thereon from the planning commission,

and subject to procedures by law, amend, supplement, change or repeal the regulations, restrictions and boundaries or classifications of property.

22.20 **Initiation of zoning amendments.** Amendments to this chapter may be initiated in one of the following ways:

- (a) By adoption of a motion by the planning commission;
- (b) By adoption of a resolution by the mayor and board;
- (c) By the filing of an application by at least one owner or lessee of property within the area proposed to be changed or affected by such amendment.

22.30 **Fees.**

	<i>RECOMMENDATION</i>
Board of zoning appeals	\$25.00
Planning commission	
Rezoning	\$50.00 plus \$5.00 for each acre
Planned unit development	\$50.00 plus \$5.00 for each acre
Text amendment	\$50.00
Subdivision	1-3 lots, \$10.00 per lot. Over 3 lots, \$30.00 plus \$5.00 per lot plus recording fees
Site plan approval	\$50.00 plus \$5.00 for each acre

(Ord. No. G-74-14, § 1.)

22.31 **Public hearing by planning commission.** The planning commission staff shall schedule a public hearing before the planning commission after the adoption of a motion, transmittal of a resolution from the mayor and board, or the filing of an application for zoning amendment.

22.32 **Notice of public hearing in newspaper given by planning commission.** Before holding the public hear-

ing, notice of such hearing shall be given by the planning commission by at least one publication in a newspaper of general circulation in the city at least fifteen days before the date of such hearing. This notice shall set forth the time, date and place of the public hearing, the nature of the proposed amendment, and a statement that after the conclusion of such public hearing the matter will be referred to the mayor and board for final determination.

22.33 **Recommendation by the planning commission.** Within thirty-two days after the public hearing the planning commission shall recommend to the mayor and board that the amendment be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment not be granted. The planning commission shall transmit its recommendation by letter to the mayor and board.

22.40 **Public hearing by mayor and board.** Upon receipt of the recommendation from the planning commission, the mayor and board shall schedule a public hearing. In the event a zoning amendment is initiated under subsections 21.22 or 21.23 and the recommendation of the planning commission should differ from the requested amendment, the party initiating such amendment may elect to have the mayor and board of aldermen vote on the amendment proposed and the recommendation of the planning commission and the notice of public hearing provided for in subsection 21.8 as well as the sign shall give notice of the proposed amendment and the recommendation and indicate that the mayor and the board of aldermen shall vote on either or both the amendment and the recommendation.

22.41 **Notice of public hearing in newspaper given by mayor.** Notice of the public hearing shall be given by the mayor and board by at least one publication in a

newspaper of general circulation in the city. Such notice shall be published at least fifteen days before the date of the required hearing. The published notice shall set forth the time, date and place of the public hearing and a summary of the proposed amendment. The property shall be properly posted by a sign approved by the city engineer or his representative as to form and location.

- 22.42 **Action by mayor and board.** Within forty-five days after the public hearing, the mayor and board of aldermen shall either adopt or deny the amendment as proposed or the recommendation of the planning commission. In the event the mayor and board should vote affirmatively on a modification of the proposed amendment or recommendation of the planning commission with modifications thereof, it shall return such recommendation with the modifications to the planning commission for its opinion on the modification. The planning commission shall reply to the mayor and

board of aldermen within thirty-two days or its failure to reply shall imply its consent thereto. The failure of the mayor and board of aldermen to vote on a reply by the planning commission at the next regularly scheduled meeting of the mayor and board shall constitute a final action by the mayor and board of aldermen. No readvertising or posting shall be required on a matter returned to the planning commission under this subsection.

- 22.50 **Plat required.** Every application for a change in zoning district boundaries shall be accompanied by a plat drawn to such scale as the zoning administrator shall require, showing the existing and proposed boundaries and such other information as he may need to enable him to plot the amendment on the official zoning map.
- 22.60 **Zoning map.** An official copy of the zoning map shall be kept for public inspection in the office of the zoning administrator, and immediately upon the passage of any amendment changing such or the boundaries of districts shown thereon, the zoning administrator shall add the changes or amendments to such map so that it shall always be an up-to-date public record of the zoning districts of the city.
- 22.70 **Reapplying.** An application for a reclassification shall not be accepted for filing by the board of aldermen if the application is for the reclassification of the whole or any part of land the reclassification of which has been opposed or denied by the board of aldermen on the merits within twelve months from the date of the board of aldermen's decision.
- 22.80 **Fee.** Every proposed amendment, supplement or change received by the mayor and board of aldermen shall be accompanied by a filing fee of twenty-five dollars plus one dollar for each acre of land to be changed. If any proposed amendment, supplement or change be withdrawn during the procedure for change and re-received by the mayor and board of aldermen it shall

be accompanied by the aforesaid filing fee. (Ord. No. G-254, § 1; Ord. No. G-70-14, § 1; Ord. No. G-73-32, § 1.)

Section 23.

VALIDITY AND REPEAL.

- 23.10 **Validity.** If any section, subsection, part, paragraph, sentence or phrase of this ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.
- 23.20 **Repeal.** Article I of Chapter 22 of the Frederick City Code (of 1953), adopted June 14, 1951, and all ordi-

nances amendatory thereof, as well as all ordinances or parts thereof which are in conflict with the provisions of this ordinance, are hereby repealed.

BE IT FURTHER ENACTED AND ORDAINED BY THE AUTHORITY AFORESAID, that this ordinance shall take effect from the date of its passage and that all ordinances or parts of ordinances inconsistent with the provisions of this ordinance be and the same are hereby repealed to the extent of such inconsistency.

Passed and Approved January 29, 1964.